

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION
4 - - -
5 IN RE: NATIONAL)
6 PRESCRIPTION OPIATE) MDL No. 2804
7 LITIGATION)
8 _____) Case No. 1:17-MD-2804
9)
10 THIS DOCUMENT RELATES)
11 TO ALL CASES) Hon. Dan A. Polster
12
13 - - -
14
15 Friday, January 25, 2019
16
17 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
18 CONFIDENTIALITY REVIEW
19 ATTORNEYS' EYES ONLY PORTIONS
20 - - -
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Videotaped deposition of Bruce Ritchie,
held at Robbins Geller Rudman & Dowd LLP, 120 East
Palmetto Park Road, Suite 50, Boca Raton, Florida,
33432, commencing at 8:40 a.m., on the above date,
before Karen Kidwell, Registered Merit Reporter,
Certified Realtime Reporter.

- - -
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1 FRIDAY, JANUARY 25, 2019, BOCA RATON, FLORIDA

2 P R O C E E D I N G S

3 -oOo-

4 VIDEOGRAPHER: Okay. Stand by. We are
5 now on the record. My name is Jeff Fleming. I
6 am a videographer for Golkow Litigation
7 Services. Today's date is January 25th, 2019.
8 The time is 8:40 a.m.

9 This video deposition is being held in
10 Boca Raton, Florida in the matter of National
11 Prescription Opiate Litigation, MDL Number 2804,
12 for the United States District Court for the
13 Northern District of Ohio, Eastern Division.

14 The deponent is Bruce Ritchie. Counsels'
15 appearances will be noted on the stenographic
16 record. The court reporter is Karen Kidwell,
17 and she will now swear in the witness.

18 BRUCE RITCHIE
19 having been first duly sworn, was examined and
20 testified as follows:

21 EXAMINATION

22 BY MR. ACKERMAN:

23 Q. Good morning, Mr. Ritchie.

24 A. Morning.

25 Q. My name is David Ackerman. We met off the

1 record, but I am an attorney representing the
2 Plaintiffs in this action.

3 Have you ever had your deposition taken
4 before?

5 A. Once.

6 Q. And when was that?

7 A. It was -- I'm not exactly sure, about
8 20-plus years ago.

9 Q. What type of matter -- litigation was
10 that?

11 A. I was a witness to a sexual harassment.

12 Q. So it's been a little while since you've
13 sat for a deposition, so let me just briefly go over
14 the ground rules --

15 A. Okay.

16 Q. -- and explain what's going to happen. I
17 will be asking questions. You hopefully will be
18 giving answers.

19 Sitting next to you is probably the most
20 talented person in the room, who is the court
21 reporter, who manages to write down everything that
22 we say. And as talented as she is, there are a few
23 things that she can't take down. She can't take down
24 when you and I speak over each other. So even though
25 it may be painfully obvious where my questions are

1 going, I'd ask that you let me complete my questions
2 before you start your answer.

3 And similarly, I will do my best to do the
4 same; that I will allow you to complete your answers
5 before I start my questions, and if at any time I
6 interrupt you, please let me know, and I'll let you
7 finish your answer.

8 In addition, the court reporter is taking
9 everything down, and we do have a video camera here
10 as well, but for purposes of the written record, the
11 court reporter can't transcribe nods or shakes or
12 shrugs of the shoulders. So all answers have to be
13 verbal: Yes, no, maybe, if necessary.

14 Do you understand?

15 A. I do.

16 Q. Thank you. If at any time you don't
17 understand a question that I ask, please let me know,
18 and I will do my best to explain it or explain
19 whatever it is that you are having difficulty
20 understanding. If you do answer a question, I will
21 assume that you understood it.

22 Is that clear?

23 A. Yes.

24 Q. All right. We are -- I think we're a
25 little bit time-limited today, as we've decided, but

1 we still have plenty of time and should be able to
2 get through everything.

3 We're going to take breaks probably about
4 every hour, hour and a half, not for too long. But
5 if at any time you need a break, just let me know.
6 I'll let your counsel know. We can take a break to
7 accommodate you. I just ask that we not break while
8 a question is pending.

9 Are you under the influence of any
10 substance or medication today that would affect your
11 ability to testify truthfully?

12 A. No.

13 Q. Okay. Let's go ahead and get started.

14 Mr. Ritchie, are you currently employed?

15 A. Yes.

16 Q. And where are you employed?

17 A. At Janssen Pharmaceuticals.

18 Q. And what is your present job title at
19 Janssen Pharmaceuticals?

20 A. I'm a regional business director with our
21 CAM sales force.

22 Q. I'm sorry. With the what?

23 A. CAM. It's a specialty sales force that
24 calls on high levels of institutional people.

25 Q. I tell you what. We have what is very

1 helpful, I think, a copy of your CV. So let's go
2 ahead and mark this as Exhibit 1, and this can
3 hopefully shortcut what is often some somewhat
4 tedious questioning.

5 A. Okay.

6 (Janssen-Ritchie Exhibit 1 was marked for
7 identification.)

8 BY MR. ACKERMAN:

9 Q. Mr. Ritchie, the court reporter has handed
10 you what has been marked as Deposition Exhibit
11 Number 1. It is a multipage document numbered
12 JAN-MS-3077094 through -- -3077096.

13 Take a moment to review this document and
14 let me know when you've had a chance to review it.

15 A. Yeah.

16 Q. All right. Do you recognize this
17 document?

18 A. I do.

19 Q. And what is it?

20 A. It's a partial résumé.

21 Q. Okay. Does this document accurately state
22 your employment history?

23 A. Until 2000 and maybe '7 or '8. It's not
24 the most current version. There's been new jobs
25 since then, but to all intents and purposes, it

1 works.

2 Q. Okay. So let's go with the current stuff
3 that's not on here first.

4 A. Okay.

5 Q. You mentioned that you are currently a
6 regional business director. What are your
7 responsibilities as a regional business director?

8 A. Right now, I have a team of nine people
9 across the southeast part of the country, and they
10 are responsible for the different institutional
11 systems. So I manage those nine people, all
12 managers.

13 Q. Are those nine people sales
14 representatives?

15 A. They are sales managers.

16 Q. Okay. Apologies. I need to fix the
17 screen here.

18 And the sales -- do the sales managers
19 oversee sales representatives?

20 A. Not in this situation. They are managers
21 unto themselves, so they are individual contributors.

22 Q. Okay. And what products are the sales
23 managers selling?

24 A. Currently, we are selling Xarelto and
25 Invokana.

1 Q. What kind of medicine is Xarelto?

2 A. It's an anticoagulant.

3 Q. And Invokana?

4 A. Is a diabetic drug.

5 Q. How long have you been in your current
6 position?

7 A. Since the beginning of 2018.

8 Q. Prior to 2018, what position -- have you
9 been employed by Janssen continuously since, it
10 appears, 1992 through the present?

11 A. Yes.

12 Q. All right. So prior to 2018, what is the
13 position that you held at Janssen?

14 A. It was a regional business director for
15 the Great Lakes area.

16 Q. And one of those painfully obvious things,
17 but where is the Great Lakes area? What does that
18 include?

19 A. It included Michigan and Indiana and the
20 western part of Ohio.

21 Q. As a regional business director, did you
22 oversee sales representatives?

23 A. In that role, I oversaw five district
24 managers and a team of about fifty representatives.

25 Q. Was this a specialized sales force?

1 A. It was institutionally based.

2 Q. And what does that mean, "institutionally
3 based"?

4 A. Call on large hospitals and other
5 specialties as well.

6 Q. The Ohio portions of the Great Lakes
7 territory, did that include Summit County, Ohio?

8 A. I do not know the counties. It included
9 Dayton, Toledo, and what's in the middle there? It's
10 all on the very western part. I'm not sure what the
11 counties are.

12 Q. So it didn't include Cleveland?

13 A. Did not include Cleveland.

14 Q. And it didn't include Akron?

15 A. No.

16 Q. Okay. What drugs were the -- if any -- or
17 medical devices were the sales representatives
18 selling?

19 A. Xarelto and Invokana as well.

20 Q. And for how long were you a regional
21 business director overseeing the Great Lakes area?

22 A. Approximately three years.

23 Q. So if my math is right, that takes us to
24 about 2014, I think?

25 A. Correct.

1 Q. And what was the position that you held at
2 that point?

3 A. Before that, I was a regional business
4 director in the New England area.

5 Q. I assume that covers states in the
6 Northeast?

7 A. It does, yes.

8 Q. And did you oversee sales reps --
9 representatives in that position?

10 A. I did. A mixture of people calling on
11 institutions and specialty offices.

12 Q. How many sales representatives?

13 A. I'm not 100 percent sure, but it would
14 have been virtually the same type of size:
15 50 people, 5 or 6 district managers.

16 Q. And what drugs or medical devices were
17 those sales representatives selling?

18 A. I'm not 100 percent sure initially, but
19 for a portion of that time, it was Xarelto and
20 Invokana as well.

21 Q. And at any portion of the time, were they
22 selling Nucynta?

23 A. I don't believe so. I don't recall.

24 Q. And how long were you a regional business
25 director for the New England area?

1 A. I would have gone approximately two years.

2 Q. So if my math is right, I think we're at
3 about 2012?

4 A. We're getting close.

5 Q. So what was the position that you held
6 prior -- immediately prior to regional business
7 director --

8 A. I was a regional business director --
9 sorry.

10 Q. Again, just -- yeah, just let me finish my
11 question.

12 A. Yeah.

13 Q. And, again, it was painfully obvious, so I
14 understand.

15 What was the position that you held
16 immediately prior to being regional business director
17 for the New England area?

18 A. I was regional business director in, I
19 think, it was the D.C. region, Washington, D.C.

20 Q. What is included in the D.C. region?

21 A. Virginia, Maryland, Washington, D.C.

22 Q. Was it a specialized sales force?

23 A. This was actually more office-based type,
24 calling on not -- no institutions; just more
25 internists and family practice physicians.

1 Q. And how many sales reps -- representatives
2 did you oversee?

3 A. It would have been approximately the same
4 number again: 50 reps, 6 district managers.

5 Q. With the same number of district managers?

6 A. Roughly, yes.

7 Q. And what drugs or medical devices were the
8 sales reps in the D.C. region selling at that time?

9 A. I'm not 100 percent sure, to be honest. I
10 don't know.

11 Q. Did it -- did -- were those sales reps
12 selling Nucynta?

13 A. I don't recall.

14 Q. How long were you regional business
15 director for the D.C. region?

16 A. I would have gone two, three years.

17 Q. And so what position did you hold
18 immediately prior to being regional business director
19 for the D.C. region?

20 A. I was the product director for Duragesic.

21 Q. Okay. And that is -- so if you look at
22 Exhibit 1 -- well, at the top of Exhibit 1, it says
23 that you were regional business director responsible
24 for all sales activities throughout the state of
25 North Carolina?

1 A. Yes.

2 Q. Okay. Is that the position that you held?

3 A. That region that I mentioned before, the
4 North -- I think the alignments changed over that
5 time. So I think it might have started in North
6 Carolina and ended up being D.C. It was an
7 evolution.

8 Q. Okay. And again here, it says: "Key
9 products include Levaquin, Aciphex, and Ultram ER."

10 Do you see that?

11 A. Yes, I do.

12 Q. Does that refresh your recollection as to
13 what drugs the sales reps were selling in that D.C.
14 or North Carolina region?

15 A. It does.

16 Q. And it was those three; is that correct?

17 A. I believe so, yes.

18 Q. What are the job responsibilities of a
19 regional business director?

20 A. The primary function of my -- of the
21 regional business director is to manage the district
22 managers that report in to you, but you have an
23 overall leadership of all the representatives as
24 well. So while it's not a direct span of control --
25 they're in your span of control, but it's not just --

1 they're not your direct reports. So it's a people
2 centric job.

3 Q. Okay. And when you say "manage district
4 managers," what is it exactly that you're managing?
5 What are your goals?

6 A. I'm helping them establish business goals.
7 I'm helping them accomplish their business goals. I
8 am developing them to be better people. I'm ensuring
9 that they, you know, are managing their teams
10 appropriately and that everything that they do is
11 compliant to the FDA.

12 Q. Is one of the goals of a regional business
13 director to increase the sales within the region that
14 that person oversees?

15 A. Not specifically. The -- as I mentioned
16 before, the goal is to go ahead and ensure that they
17 are doing their -- their job appropriately; that
18 everything that they're doing is -- that they're
19 managing their team. It's much more of a development
20 and ensuring the fullest execution than focus just on
21 sales.

22 Q. Okay. If you look at Exhibit 1, there is
23 a bullet, the first bullet point under "Regional
24 business director." It says: "Implemented a new
25 sales model that helped the team improve from second

1 last in the nation to a current ranking of third in
2 the nation."

3 Do you see that?

4 A. I do.

5 Q. Okay. What are the metrics that were used
6 to rank that team?

7 MS. STRONG: Objection to form.

8 THE WITNESS: The -- there is a -- there
9 is above-base compensation that is in play every
10 year. It varies. It can vary from every six
11 months. It's not a constant thing. But it --
12 depending on the metrics of the -- the sales
13 contest or the sales -- above-base sales
14 campaign, every team is ranked.

15 BY MR. ACKERMAN:

16 Q. Is that a current practice that still
17 exists at Janssen?

18 MS. STRONG: Objection to form.

19 THE WITNESS: I'm not sure.

20 What do you mean? Can you be more
21 specific, please?

22 BY MR. ACKERMAN:

23 Q. Sure. Does Janssen today still have sales
24 contests that result in, as you described it,
25 "above-base compensation"?

1 A. Yes.

2 MS. STRONG: Objection to form.

3 And please, if you could wait to make sure
4 I have an opportunity to provide an objection on
5 the record.

6 THE WITNESS: Yes.

7 BY MR. ACKERMAN:

8 Q. When was the last contest that Janssen
9 held that was used to rank sales teams?

10 A. So we're using the word "contest" here.
11 "Contest" is different from this "above-base
12 compensation." The compensation is more of a -- it's
13 a sale. It's a plan designed on an annual basis for
14 the -- our contests are held sporadically. So I'm
15 not sure if you're asking about the contests or
16 asking about the actual -- the above-base comp
17 portion of every rep's business every year.

18 Q. Okay. Thank you for clarifying.

19 What I'm -- what I'm trying to get at is,
20 there is a reference in your CV to a ranking of the
21 sales teams.

22 And so my question is: What -- how are
23 those sales teams ranked? What are the categories or
24 what are the metrics that are used?

25 MS. STRONG: Just a moment, please.

1 Objection to form.

2 Do you understand the question?

3 THE WITNESS: I do not.

4 BY MR. ACKERMAN:

5 Q. Okay. Let's just look at Exhibit 1.

6 Okay?

7 And the bullet point says: "Implemented a
8 new sales model that helped the team improve from
9 second last in the nation to a current ranking of
10 third in the nation."

11 Do you see that?

12 A. I do.

13 Q. Who ranks the sales teams?

14 A. We have a -- in the company, there is a
15 team that does compensation. And they put the --
16 they put the contest together or the plans
17 together -- I use the word -- not contest, but the
18 plans together. They get the data, and they then
19 rank people based upon the parameters of that
20 compensation plan.

21 Q. So the ranking is tied to compensation?

22 A. It is.

23 Q. The ranking that is referenced here in
24 Exhibit 1, do you recall the metrics that were used
25 to rank the sales teams?

1 A. Not specifically, no.

2 Q. Okay. Are you aware of rankings of sales
3 teams that are based upon total sales?

4 MS. STRONG: Objection to form.

5 THE WITNESS: Not -- no, not total sales.

6 BY MR. ACKERMAN:

7 Q. Okay. Let me ask this differently.

8 It sounds like there are different metrics
9 used for different rankings, is that right, at
10 different times?

11 A. Every plan is different, yes.

12 Q. Okay. What are some of the metrics that
13 Janssen has used during the course of your experience
14 as a regional business director to rank sales teams?

15 MS. STRONG: Objection to form.

16 THE WITNESS: There would be a sales, a
17 growth versus -- growth over base component.

18 There would be a -- potentially a shared
19 component. Those would be the two major ones.

20 BY MR. ACKERMAN:

21 Q. So let's start with that first one, the
22 growth over base component. What is that component
23 measuring?

24 A. The -- depending on the drug and the
25 category you're selling, there is a -- a basket of

1 drugs that are defined as the pool that you are
2 judged against. So would be competitor drugs,
3 similar drugs, are part of this base. And then your
4 individual brand is then compared to that basket, and
5 either you're getting shared growth or shared -- or
6 avoiding shared decline.

7 Q. And it's growth in what?

8 A. In prescriptions.

9 Q. And that's prescriptions written by
10 prescribers in the business -- or in the district; is
11 that right?

12 A. It is. It also can be sale, depending --
13 I'm talking office based right now so for this
14 particular job, yes.

15 Q. Okay. So for your particular job now, it
16 would be prescriptions written? Is that what I
17 understand?

18 A. No. So for my particular job now, it's
19 more of a -- it's institutional focus. So it's
20 actually -- institutional purchases are a key, a big
21 component of it.

22 Q. For the sales teams that are visiting
23 prescribers, not the institutional-based sales teams,
24 would there still -- was there a growth over base
25 component?

1 MS. STRONG: Objection to form.

2 THE WITNESS: I'm not sure what period
3 you're talking to, because every year, the
4 contest is different.

5 BY MR. ACKERMAN:

6 Q. I understand that every year they're
7 different, and what I've asked is: What are the
8 metrics that are typically used in these contests?

9 I don't have a contest to refer to
10 specifically. So I'm just asking based on your
11 experience, and it sounds like you have roughly 10,
12 12 years as a regional business director; is that
13 right?

14 A. Approximately, yes.

15 Q. And so how often does Janssen hold one of
16 these contests that you've described?

17 MS. STRONG: Objection to form.

18 THE WITNESS: So as mentioned before,
19 contests are separate to these above based
20 pieces. I'm not sure which one you're referring
21 to.

22 BY MR. ACKERMAN:

23 Q. Okay. So let's go back again.

24 What is used to rank the sales teams?

25 A. There is an annual compensation plan that

1 is -- that is in place every year, and they -- they
2 change annually and potentially even every six
3 months.

4 Q. So the sales teams are ranked based on
5 their annual compensation earned?

6 A. No. They're based upon the contest
7 parameters, and then there is a compensation
8 component that is paid out, based -- depending on the
9 results.

10 Q. Okay. I understand that -- I think what
11 you're saying is contests are linked to compensation;
12 is that correct?

13 A. No. Not saying that.

14 Q. All right. I worry that we're talking
15 past each other, and I'm trying to figure this one
16 out.

17 Let's go back to this. It appears, over
18 the last 10, 12 years, that you've been a regional
19 business director for two to three years on a certain
20 location and then moved on to a different location;
21 is that correct?

22 A. Yes.

23 Q. Is that typical in Janssen?

24 A. Yes.

25 Q. Do you have the opportunity to choose the

1 regions to which you're assigned?

2 A. No.

3 Q. To whom does a regional business director
4 report?

5 A. National sales director.

6 Q. So if we're working through the sales
7 hierarchy, there are sales reps who then report to
8 district managers; is that correct?

9 A. Yes.

10 Q. And then the district managers report to
11 regional business directors; is that correct?

12 A. Yes.

13 Q. And then the regional business directors
14 report to national sales managers?

15 A. Directors, yes.

16 Q. Sorry. National sales directors.

17 And then to whom does the national sales
18 director report?

19 A. It varies over time, but usually to a VP.

20 Q. Okay. So according to Exhibit 1, between
21 2003 and 2005 you were the product director for
22 analgesia; is that correct?

23 A. Yes.

24 Q. The first line here says: "Responsible
25 for multiple aspects of marketing for Duragesic."

1 Do you see that?

2 A. Yes.

3 Q. So what were the aspects of marketing for
4 Duragesic that you were responsible for?

5 MS. STRONG: Objection to form.

6 THE WITNESS: They varied over time. But
7 everybody on the brand team has specific
8 projects that they were -- they were tasked
9 with, and you stayed in your lanes and you
10 managed those specific projects.

11 BY MR. ACKERMAN:

12 Q. Okay. Was the product director a member
13 of the brand team for Duragesic?

14 A. Yes.

15 Q. Who else comprised the brand team for
16 Duragesic?

17 A. It varied over time, but you would have
18 senior product director, you would have directors,
19 and you would have managers and associate managers.

20 Q. During the period of time that you were
21 product director for Duragesic, to whom did you
22 report?

23 A. I believe for most of the time, it was to
24 Kati Chupa.

25 Q. And what was Ms. Chupa's job title?

1 A. Senior product director, I believe.

2 Q. And did you have any direct reports to
3 you?

4 A. For one year, I had an associate director
5 reporting to me.

6 Q. Who was the associate director?

7 A. First name Julie, not sure last name.

8 Q. So looking back at Exhibit 1 and talking
9 about your role as product director of analgesia, it
10 says you were responsible for sales force activities.

11 Do you see that?

12 A. I do.

13 Q. Can you just provide more detail about in
14 what way you were responsible for sales force
15 activities?

16 MS. STRONG: Objection to form.

17 THE WITNESS: The roles changed over time,
18 but I was a primary liaison with the sales
19 leadership. I helped work with sales training.
20 And then I had certain regions that I was the
21 contact person for. So if they had a need for
22 information, they would reach out to me.

23 BY MR. ACKERMAN:

24 Q. Who was the sales leadership at that time?

25 A. It varied over time. But normally, the

1 national sales directors were my -- would be my
2 points of contact.

3 Q. Do you recall who the national sales
4 directors were at that point?

5 A. I don't recall all of them. I remember a
6 Dominic LaSelva, Barry Gibson, Marc Marano, and I
7 know I'm missing one or two.

8 Q. You mentioned you had involvement with
9 sales training; is that correct?

10 A. It is.

11 Q. Were you responsible for training the
12 sales representatives?

13 A. No.

14 Q. So in what way were you involved with the
15 sales training?

16 A. I was the liaison with training so that
17 they were aware of the brand intentions and they then
18 created programs to match those intentions.

19 Q. And you say "brand intentions." Does that
20 mean the marketing messages?

21 MS. STRONG: Objection to form.

22 THE WITNESS: Yes.

23 BY MR. ACKERMAN:

24 Q. Does "brand intentions" refer to anything
25 else?

1 A. No.

2 Q. And then you mentioned you were a contact
3 person for specific regions?

4 A. Yes.

5 Q. For which regions were you the contact
6 person?

7 A. I cannot recall.

8 Q. Do you remember whether any of the regions
9 included Cleveland or Akron, Ohio?

10 A. No clue.

11 Q. Okay. So the next piece here on Exhibit 1
12 says you were responsible for advisory boards. Do
13 you see that?

14 A. Yes.

15 Q. What are advisory boards?

16 A. Advisory boards were a format where
17 physicians would give us feedback on what they were
18 seeing in the pain world.

19 Q. And were you responsible for organizing
20 the advisory boards?

21 A. I was responsible for logistics of the
22 advisory boards, not for the attendees.

23 Q. What does that mean?

24 A. I found the hotel, I put the agenda
25 together, I made sure that the content was all --

1 everything was in place. So it was more just to make
2 sure that everything flowed smoothly throughout the
3 meeting.

4 Q. Who was responsible for determining the
5 attendees for these advisory boards?

6 A. I'm not 100 percent sure.

7 Q. Did you attend the advisory boards?

8 A. I did.

9 Q. How often were the advisory boards held?

10 A. It varied. Different customers, maybe
11 twice a year.

12 Q. Were the advisory boards nationally
13 focused, or were they regional?

14 MS. STRONG: Objection to form.

15 THE WITNESS: They were normally
16 regionally focused.

17 BY MR. ACKERMAN:

18 Q. Okay. In what locations do you recall
19 advisory boards being held for Duragesic?

20 A. Be more specific on the location. Are you
21 looking for hotel or are you looking for area?

22 Q. Oh, I'm sorry. Just area, the name of the
23 city if you can remember it.

24 A. I don't recall all of them. I know
25 Orlando was one of them. And I know there was some

1 in California, not specifically where.

2 Q. Do you recall any in Ohio?

3 A. I do not.

4 Q. Who from Janssen attends these advisory
5 board meetings?

6 MS. STRONG: Objection to form.

7 BY MR. ACKERMAN:

8 Q. Does anyone from Janssen attend the
9 advisory board meetings?

10 A. Yes.

11 Q. Who?

12 MS. STRONG: Objection to form.

13 THE WITNESS: It varies over time. So
14 there is no constant answer. All the --
15 generally, the brand people would all be there,
16 and occasionally some of the regional business
17 directors would be there.

18 BY MR. ACKERMAN:

19 Q. Are there written records made of the
20 advisory board meetings? Minutes or memoranda?

21 MS. STRONG: Objection to form.

22 THE WITNESS: Not that I'm aware.

23 BY MR. ACKERMAN:

24 Q. How is the feedback from physicians at
25 these advisory board meetings captured, or how was it

1 captured --

2 MS. STRONG: Objection.

3 BY MR. ACKERMAN:

4 Q. -- if at all?

5 A. There were -- during the meeting, it would
6 be questions and answers after each of the different
7 sessions, and I think we had a vendor that would
8 capture those questions.

9 And then on the Q -- during the Q and A
10 sessions, those were -- there was -- somebody would
11 be hosting that session, and they would take -- they
12 would capture the key takeaways that would be
13 pertinent to the brand.

14 Q. This is going back a ways, I understand,
15 but do you recall the name of the vendor who would
16 capture the Q and A?

17 MS. STRONG: Objection to form.

18 BY MR. ACKERMAN:

19 Q. Do you recall the name of the vendor who
20 was involved in these advisory board sessions?

21 MS. STRONG: Same objection.

22 THE WITNESS: I do not.

23 BY MR. ACKERMAN:

24 Q. Did you ever receive reports of the
25 advisory board meetings?

1 A. I did not, to the best of my recollection.

2 Q. I apologize if I already asked this, but
3 what was the purpose of the advisory board meetings?

4 MS. STRONG: Objection to form.

5 THE WITNESS: It was to give people that
6 we were working, provide a chance to interact
7 with their peers and for the brand to get a
8 better -- to stay -- to stay in tune with what
9 was going around in the marketplace.

10 BY MR. ACKERMAN:

11 Q. You mentioned that there were sessions
12 that -- let me back up for a minute.

13 Did the advisory board meetings follow a
14 set -- a set format or a standard format?

15 A. It was fairly consistent from program to
16 program, yes.

17 Q. And what was that format?

18 A. We had a faculty of presenters that
19 presented on different topics. These were all key
20 opinion leaders, not employees of Janssen, and the
21 subject matter varied from session to session.

22 Q. And then, if I understand you, after each
23 session with -- there was an opportunity for a
24 question and answer period; is that correct?

25 A. Usually, yes.

1 Q. Were these advisory boards opportunities
2 for prescribers to receive continuing medical
3 education?

4 A. No.

5 Can you just -- I answered. Can you just
6 go back and make --

7 Q. Yes.

8 A. I want to make sure your definition of
9 "continuing medical education" is the same as mine.

10 Q. Sure. And what is your definition of
11 "continuing medical education"?

12 A. Mine is that's where you get credits. You
13 need a certain number of credits each year, so you
14 use a formal process to go ahead and get credits.

15 Q. That is what I was referring to, yes, and
16 thank you. Thank you for clarifying.

17 Were the advisory boards multiday
18 meetings, or were they -- strike that question.

19 How long did a typical advisory board
20 meeting last?

21 A. In general, they would start on Friday
22 evening and be done by Sunday lunchtime.

23 Q. Your logistical responsibilities for these
24 advisory boards, did that include arranging for the
25 presenters?

1 MS. STRONG: Objection to form.

2 THE WITNESS: Be more -- just be more
3 specific when you say "arranging," sir.

4 BY MR. ACKERMAN:

5 Q. Who -- who was responsible for selecting
6 who would -- who would present at these advisory
7 board meetings?

8 MS. STRONG: Objection to form.

9 THE WITNESS: We had a vendor that was
10 partly involved, but the brand team would have
11 an idea. So there would be a -- the vendor
12 would bring a suggestion of topics, and then the
13 brand team -- I'm not sure who exactly on the
14 brand team -- would go ahead and decide which
15 topics were thought to be best, most relevant.

16 BY MR. ACKERMAN:

17 Q. And, again, you don't recall the name of
18 the vendor?

19 A. It will come. I don't think -- I can't
20 think right now, yeah.

21 Q. Is that the same vendor who would be
22 capturing the Q and A?

23 MS. STRONG: Objection to form.

24 THE WITNESS: Yes.

25

1 BY MR. ACKERMAN:

2 Q. When that vendor suggested topics for the
3 advisory board, did the vendor also suggest
4 presenters who would present on those topics?

5 A. Yes.

6 Q. Did you personally attend presentations at
7 the advisory boards?

8 A. Yes.

9 Q. All of them?

10 A. The majority.

11 Q. How many prescribers would attend a
12 typical advisory board meeting?

13 MS. STRONG: Objection to form.

14 THE WITNESS: I'm not sure of an exact
15 number. Round about 30 to my best recollection.

16 BY MR. ACKERMAN:

17 Q. So typically, these were gatherings of
18 less than 100 prescribers?

19 A. To my best recollection, yes.

20 Q. Did sales representatives typically attend
21 the advisory board meetings?

22 MS. STRONG: Objection to form.

23 THE WITNESS: No.

24 BY MR. ACKERMAN:

25 Q. Did district managers typically attend the

1 advisory board meetings?

2 A. Not at any of the ones I was at.

3 Q. Did the advisory boards have a name?

4 A. No. The --

5 Q. I didn't mean to interrupt you.

6 A. No. The "advisory board" was the name,
7 yeah.

8 Q. Okay. And that is how individuals at
9 Janssen referred to this type of gathering, as an
10 "advisory board"?

11 A. Members of the brand, yes.

12 Q. So the next topic says "Business plan
13 development" on Exhibit 1. Do you see that?

14 A. Yes.

15 Q. What was your involvement with business
16 plan development?

17 A. So in one of the years, and I'm not sure
18 which one it was, I was responsible for coordinating
19 the plan. So it was more the -- it was sort of
20 essentially compiling the different inputs from a
21 variety of people into the finished version.

22 Q. Okay. And then if you move to bullet
23 points underneath "Product director for analgesia,"
24 it says: "Created and implemented strategies that
25 helped the brand maintain significant market share

1 even while facing generic competition."

2 Do you see that?

3 A. I do.

4 Q. Is that an accurate description of your
5 job performance as product director of analgesia?

6 A. For one of the years, yes.

7 Q. And what were these strategies that you
8 created and implemented that are -- that you're
9 referring to, that are referred to in this document?

10 A. The biggest campaign was a grow and defend
11 campaign.

12 Q. And what was the grow and defend campaign?

13 A. It was designed to maintain Duragesic
14 market share while generic products came to market.
15 But there was a second phase. There was a unique
16 situation that the generic was a different
17 formulation to the branded product, and we had
18 customers that liked a reservoir patch, and you had a
19 matrix patch coming into the mix, so there was
20 uncertainty as to how that product would work when it
21 was different to what they were used to using.

22 Q. So the -- at this time, the Duragesic was
23 a reservoir patch; is that correct?

24 A. That's correct.

25 Q. And what does that mean, a "reservoir

1 patch"?

2 A. The construction of the patch is that
3 there's multiple layers in the patch. One of those
4 layers is fentanyl, but there are some other mixes in
5 there. The -- so the reservoir -- that reservoir
6 formulation allowed for a steady state of drug
7 delivered over a period of time.

8 It also, due to the reservoir nature, was
9 a lot more difficult to extract any fentanyl out of
10 the patch with a needle because you wouldn't show you
11 where it was or how much you could get, so it
12 became -- it was a formulation that doctors trusted.

13 Q. And the generic was a matrix patch; is
14 that correct?

15 A. There were two generics: One was a matrix
16 patch, and one was a reservoir patch.

17 Q. What is a "matrix patch"?

18 A. I'm no scientist, but it's essentially
19 just a single layer. There's no reservoir. It's
20 just a transfer, like a sticker.

21 Q. Was it -- was the matrix patch
22 cross-hatched in any way?

23 MS. STRONG: Objection to form.

24 THE WITNESS: I have no idea.

25

1 BY MR. ACKERMAN:

2 Q. Did the grow and defend campaign that you
3 created and implemented involve specific marketing
4 messages?

5 MS. STRONG: Objection to form.

6 THE WITNESS: There were messages. I'm
7 not sure. There was a message that was -- it
8 was a rollout of this campaign, yes.

9 BY MR. ACKERMAN:

10 Q. And so what was that message?

11 A. Grow and defend. There was a -- part of
12 the message was -- it was -- was educating customers
13 about the difference between the two patches.

14 Q. And so what was the difference between the
15 two patches that was the focus of this grow and
16 defend campaign?

17 A. The reservoir patch and the matrix patch.

18 Q. And what aspects of those patches did
19 sales reps -- or what aspects of those -- of those
20 patches were the subject of the grow and defend
21 campaign?

22 MS. STRONG: Objection to form.

23 THE WITNESS: I'm not sure what you're
24 really asking.

25

1 BY MR. ACKERMAN:

2 Q. How did the grow and defend campaign
3 differentiate the reservoir patch from the matrix
4 patch?

5 A. To my best recollection, there was a
6 graphic on one of the pieces that had a schematic of
7 what the reservoir patch was and what a matrix patch
8 was.

9 Q. And was the message -- was the message the
10 campaign intended to convey that the reservoir patch
11 was superior to the matrix patch?

12 MS. STRONG: Objection to form.

13 THE WITNESS: No. The message was
14 intended to let the customers know that there
15 was a different formulation.

16 You had two generics on the market as
17 well. One was -- so our biggest concern was
18 that no one would know which generic the patient
19 was going to get. You might get the matrix one
20 time. You might get the reservoir the next
21 time. So we wanted to ensure that patients were
22 getting consistency of therapy.

23 BY MR. ACKERMAN:

24 Q. Was it Janssen's position at the time that
25 the -- that the matrix patch was inferior to the

1 reservoir patch?

2 MS. STRONG: Objection to form.

3 THE WITNESS: I'm not sure what Janssen's
4 position was at that time.

5 BY MR. ACKERMAN:

6 Q. So the next bullet point says: "Created
7 programs that helped the brand grow from 500K to over
8 a billion in net sales."

9 Do you see that?

10 A. I do.

11 Q. And what were the programs that you
12 created that helped -- let me back up.

13 First of all, I assume the reference to
14 "brand" is the Duragesic brand; is that correct?

15 A. Yes.

16 Q. And what were the programs that you
17 created that are described in this -- that are
18 referenced in this document?

19 A. Most of it was the messaging and ensuring
20 that, you know, physicians were getting the knowledge
21 they needed to correctly prescribe this drug.

22 Q. And specifically, what was the messaging?

23 MS. STRONG: Objection to form. Sorry.

24 THE WITNESS: I don't recall specifically
25 the messaging.

1 BY MR. ACKERMAN:

2 Q. Was there a point in time when Duragesic
3 was marketed using the catch phrase "Life
4 uninterrupted"?

5 A. Yes.

6 Q. Is that a program that you created as
7 product director?

8 A. It was a program I was involved in. I'm
9 not sure specifically I created it.

10 Q. In what way were you involved in that
11 program?

12 A. I was -- as I mentioned before, I was one
13 of the liaisons with the sales force and sales
14 training. So we would have taken that concept to the
15 field sales and made sure the messaging around it was
16 correct and then that any necessary training was in
17 place as well.

18 Q. The next bullet point says: "Developed
19 new programs to increase customer interactions and
20 information flow with the brand team."

21 Do you see that?

22 A. I do.

23 Q. And so what are the "programs" that are
24 referenced in this document?

25 A. I'm not -- I'm not 100 percent sure. The

1 one I can remember is I was involved in recreating
2 our website, the Duragesic website. I was just
3 the -- we had a vendor doing it, and I was just --
4 oversaw that initiative.

5 Q. Any other programs?

6 A. Not that I can recall.

7 Q. And the last bullet point there says:

8 "Key resource for all marketing and sales management
9 meetings and brand plan POAs."

10 Do you see that bullet point?

11 A. I do.

12 Q. What is a "POA"?

13 A. It's a cycle meeting. It's a meeting they
14 have in the field to go ahead and roll out the new
15 messaging. I can't think what the acronym means
16 right now.

17 Q. How often are the POAs held?

18 A. It varies over time. Every year is a
19 little different, and at this time, I think there
20 were about three a year.

21 Q. And were these national meetings?

22 MS. STRONG: Objection to form.

23 THE WITNESS: There -- they could be
24 different meetings. You could have a district
25 meeting, a regional meeting. I do -- I can't

1 recall there being a national meeting, but there
2 may have been one in that time.

3 BY MR. ACKERMAN:

4 Q. And so what was your involvement in the
5 POAs?

6 A. I made sure that all the materials
7 necessary for a successful meeting at a remote site.
8 When I say "all materials," that the brand-specific
9 materials were available to the different managers
10 and that they would be able to go ahead and correctly
11 portray what we were trying to -- our intentions to
12 the sales reps.

13 Q. As product director analgesic, did you
14 have any involvement in identifying key opinion
15 leaders?

16 A. I did not.

17 Q. Who was responsible for identifying key
18 opinion leaders for Duragesic?

19 MS. STRONG: Objection to form.

20 THE WITNESS: I don't recall anyone
21 specifically being responsible for that.

22 BY MR. ACKERMAN:

23 Q. Did you have any responsibility for
24 suspicious-order monitoring for the Duragesic brand?

25 A. No.

1 Q. Who was -- who, if anyone, was responsible
2 for suspicious order-monitoring for the Duragesic
3 brand?

4 A. To be honest, I don't recall that term
5 ever being utilized.

6 Q. Did you have any responsibility as product
7 director analgesia for reporting of adverse events
8 with respect to Duragesic?

9 MS. STRONG: Objection to form.

10 THE WITNESS: I specifically did not have
11 any responsibility. It was a different process
12 involved for reporting adverse events.

13 BY MR. ACKERMAN:

14 Q. And what was the process for reporting
15 adverse events?

16 A. It's one of the backbones of our company.
17 There is a -- there is a -- there is a process
18 that -- I believe it goes to the medical department.
19 Any adverse -- any adverse events need to be reported
20 in a timely fashion, and there is a format to do it.
21 I think back then, it was a paper format. Now it's
22 strictly an electronic format. And every rep is
23 well-trained to go ahead and complete that process.

24 Q. Did you -- as product director with
25 responsibility for the Duragesic brand, did you have

1 any involvement in investigating reports of abuse or
2 diversion of the Duragesic product?

3 A. I did not.

4 Q. Was there -- was there anyone who was
5 responsible for investigating reports of abuse and
6 diversion of the Duragesic product during that time
7 frame?

8 MS. STRONG: Objection to form.

9 THE WITNESS: There would have been. I
10 don't know who that person would have been.

11 BY MR. ACKERMAN:

12 Q. And why do you say, "There would have
13 been"?

14 A. Because we -- as a company -- well, we
15 are a credo-based company, and the patient safety is
16 always -- it's the number one concern we have. And
17 so any time you would get a report, someone in the
18 company would -- there is a department that would
19 investigate to make sure that if there was a claim,
20 that it was -- you know, that we found a way to take
21 care of it. And if it -- and sometimes, a lot of
22 times, which was usually, the claims were just --
23 were not accurate.

24 Q. Okay.

25 MS. STRONG: Can we take a break? We've

1 been going about an hour.

2 MR. ACKERMAN: Yeah. Let's go off the
3 record.

4 VIDEOGRAPHER: Off the record. 9:37 a.m.

5 (A recess transpired from 9:37 a.m. to
6 9:50 a.m.)

7 VIDEOGRAPHER: On the record at 9:50 a.m.

8 BY MR. ACKERMAN:

9 Q. We are back on the record, Mr. Ritchie.
10 Turning your attention back to Exhibit 1.

11 At the bottom of the first page, it says
12 that your position was a field sales director; is
13 that correct?

14 A. Yes.

15 Q. And what were your job responsibilities as
16 a field sales director?

17 A. I was responsible for, at different times,
18 up to seven regional business directors. They were
19 my direct reports. Each of them had their own team
20 of people. I didn't have direct responsibility for
21 those groups. I had responsibility for the entirety.

22 I had the pain sales force, and I had the
23 hospital sales force reporting to me at that time.
24 This was a people centric job.

25 Q. You said the "pain sales force"; is that

1 correct?

2 A. Yes.

3 Q. And what was the pain sales force?

4 A. It was a team dedicated to selling
5 Duragesic.

6 Q. How many members were -- how large was the
7 pain sales force?

8 A. At the start, it was 275 people.

9 Q. When did it start?

10 A. I don't know. It was in place when I came
11 with the job.

12 Q. I'm sorry. I thought you had said at the
13 start it was 275 people, so I'm just trying to figure
14 out what time frame you're referring to.

15 A. I think the numbers changed over time.
16 One of the consistencies of our company is nothing
17 stays constant so, yeah.

18 Q. I see. So at what point in time was the
19 pain force, the pain sales force, comprised of 275
20 people?

21 A. In -- it definitely was there in 1999.

22 Q. Did that sales force grow at any point?

23 A. I do believe it grew slightly, yes.

24 Q. After 1999, it grew?

25 A. At some point, yes.

1 Q. Is that a -- was the pain sales force
2 still in existence during the time period you were
3 product director?

4 MS. STRONG: Objection to form.

5 THE WITNESS: Not specifically, no.

6 BY MR. ACKERMAN:

7 Q. Can you provide more detail?

8 MS. STRONG: Objection to form.

9 THE WITNESS: At some point, the -- the
10 Duragesic -- the people selling Duragesic were
11 merged into other sales forces, and you no
12 longer had a dedicated pain team.

13 BY MR. ACKERMAN:

14 Q. At what point in time was the pain sales
15 force merged into other sales forces?

16 A. I don't recall the timing.

17 Q. Was it during the period that you were
18 product director?

19 A. As I mentioned before, I don't recall the
20 time. I believe so.

21 Q. Were you involved in the decision to merge
22 the pain sales force into other sales forces?

23 A. I was not.

24 Q. Who made that decision, if you know?

25 A. That would have been a company decision at

1 high levels that I'm not aware of.

2 Q. When you say "high levels," what -- what
3 specific job titles would comprise "high levels"?

4 MS. STRONG: Objection to form.

5 BY MR. ACKERMAN:

6 Q. What do you mean by "high levels"?

7 A. The VP level and higher.

8 Q. Were you consulted in connection with the
9 decision to merge the pain sales force --

10 A. No, I was not.

11 Q. -- into other sales forces?

12 Did you agree with the decision to merge
13 the pain sales force into other sales forces?

14 MS. STRONG: Objection to form.

15 THE WITNESS: I didn't have a thought
16 positive or negative, either way, yeah.

17 BY MR. ACKERMAN:

18 Q. So looking back at Exhibit 1, the second
19 line here under "Field sales director" says you were
20 "responsible for the leadership and motivation of
21 approximately 400 sales representatives and their
22 managers."

23 Do you see that?

24 A. I do.

25 Q. Is that -- I assume that includes the pain

1 sales force; is that correct?

2 A. Yes.

3 Q. Are there any other sales representatives
4 included in that approximately 400 number?

5 A. The hospital sales force.

6 Q. And I assume the hospital sales force was
7 tasked with selling to hospitals?

8 A. Yes.

9 Q. Did the hospital sales force sell
10 Duragesic to hospitals?

11 A. They did, yes.

12 Q. And did the pain sales force also sell
13 Duragesic to hospitals?

14 A. No.

15 Q. So to whom did the pain sales force sell
16 Duragesic?

17 MS. STRONG: Objection to form.

18 THE WITNESS: The -- the primary focus was
19 on pain specialists and oncology offices.

20 BY MR. ACKERMAN:

21 Q. I can see the other positions that you've
22 held at Janssen here. Just very quickly, I just want
23 to ask whether any of these involved the sales of
24 Duragesic. Otherwise, I think they're fairly
25 self-explanatory.

1 A. No, they did not.

2 Q. So your first experience with selling
3 Duragesic, was that as field sales director in 19 --
4 when you became field sales director in 1999?

5 A. Yes.

6 Q. Okay. So at that time, how did you learn
7 about Duragesic?

8 A. Be more specific? Sorry.

9 Q. Sure. Did you, in -- when was Duragesic
10 launched?

11 A. I'm not 100 percent sure.

12 Q. It was prior to 1999, though, right?

13 A. Yes.

14 Q. And it was already on the market in 1999?

15 A. Yes.

16 Q. So in 1999, you became responsible for
17 sales representatives who were selling Duragesic,
18 correct?

19 A. Yes.

20 Q. Did you take any steps to educate yourself
21 regarding what Duragesic was and the marketing
22 messages and so forth?

23 A. Yes. So every person that is involved,
24 from any level in the sales team, goes through the
25 same training. So I went through exactly the same

1 training as the representatives would have gone
2 through. There was no abbreviated version.

3 So it was home study. It was attending
4 training, the formal training classes. And that was
5 not just for Duragesic. It would have been for the
6 other drugs, Aciphex and Levaquin as well. They were
7 new to me as well.

8 Q. And what were -- I think you may have
9 already just described it, but what were the
10 components of that training?

11 A. So there are modules in place from anatomy
12 to the marketplace to the competitors that I would
13 have gone through and had to have -- I had to pass
14 the various assessments. You had to get 90 percent
15 on each of the assessments, exactly the same for me
16 as it was for the representatives.

17 Q. And so you mentioned there was home study?

18 A. Yes.

19 Q. And what -- when you say "home study,"
20 what is -- can you explain what that means?

21 A. Yes. I was at home studying.

22 Q. Were you -- what -- how did you obtain the
23 materials that you were studying?

24 A. I believe -- at some point, it changed and
25 went online. I'm not sure if I either got manuals or

1 I got the materials in some type of online format.

2 It was study manuals, just -- yeah.

3 Q. So just to be clear, the company provided
4 sales representatives and you with study materials;
5 is that right?

6 A. That is correct. All the materials would
7 have gone through the copy clearance and the review
8 necessary for them to become tools that we could --
9 that reps would utilize to go ahead and study, yes.

10 Q. And then you review those tools on your
11 own at home, and that's why it's called "home study";
12 is that correct?

13 A. Yes.

14 Q. You mentioned "training sessions"?

15 A. Yes.

16 Q. Are those in-person training sessions, or
17 are they -- how are those conducted?

18 A. So the training sessions are conducted in
19 formal classes at -- usually in the home office
20 environment.

21 There is a dedicated training department
22 that has people that are more knowledgeable. And so
23 they help ensure that the -- the book learning is
24 fully understood; that they go deep into some
25 components. They ensure that the people going to

1 training classes can verbalize. And then there is
2 also a messaging component so that you need to be
3 able to be conversant with the subject matter as
4 well.

5 Q. Are the classes in person?

6 A. It's a team of people. It's a group of
7 people.

8 I'm sorry. Be more specific.

9 Q. Sure. The group of people, I assume, are
10 trainers; is that correct?

11 A. I'm not sure what you're asking.

12 Q. Let me ask the question again.

13 The formal training classes that you
14 described, are those in-person training classes, or
15 are they held -- or do people participate -- sales
16 representatives and others -- participate remotely?

17 A. Oh. They're in person. They were back
18 then anyway.

19 Q. Do you recall how many formal class in
20 training or in-person training classes you attended?

21 A. I believe it was two.

22 MR. ACKERMAN: Let's mark an exhibit.

23 Let's mark this as Exhibit 2, please.

24 (Janssen-Ritchie Exhibit 2 was marked for
25 identification.)

1 BY MR. ACKERMAN:

2 Q. Mr. Ritchie, I've handed you what has been
3 marked as Deposition Exhibit Number 2. It is a
4 two-page document, Bates number JAN-MS-0286988
5 through -89. Take a moment to review this document
6 and let me know when you've had a chance to review
7 it.

8 Do you recognize this document?

9 A. Not specifically, no.

10 Q. It's an e-mail chain, and I don't believe
11 you are on the e-mails at the top, but beginning
12 probably about three-quarters down on the page, there
13 is an e-mail from Bruce Moskovitz. Do you see that?

14 A. I do.

15 Q. And who -- what position at the time did
16 Bruce Moskovitz hold?

17 A. Reading it on the sheet here, I knew he
18 was in the medical department. I wasn't sure of his
19 position.

20 Q. Sure. And then there is an e-mail below
21 that from Steve Zollo. Do you see that?

22 A. I do.

23 Q. Do you recall what position Steve Zollo
24 held?

25 A. He was the vice president of analgesia.

1 Q. Okay. So looking at Mr. Zollo's e-mail
2 which is dated January 2nd, 2001, and then continues
3 onto the second page, the subject line is "JCAHO
4 standards on pain management."

5 Are you familiar with JCAHO?

6 A. I've heard of the acronym before, but I
7 don't specifically know what they do.

8 Q. I think it's described in here a few lines
9 down as the Joint Commission on Accreditation of
10 Health Care Organizations, correct?

11 A. Yeah.

12 Q. And Mr. Zollo writes: "One year ago, the
13 Joint Commission on Accreditation of Health Care
14 Organizations adopted standards relative to adequate
15 treatment of pain that was to be instituted in
16 hospitals across the country in January."

17 And then the next paragraph begins: "A
18 question is: Are we prepared to communicate these
19 sales -- these changes to the sales force, and have
20 we considered how we would leverage these revised
21 standards to increase sales for Duragesic?"

22 Do you see that line?

23 A. I see that line, yes.

24 Q. Okay. Do you recall any discussions at --
25 participating in any discussions at Janssen

1 concerning communicating the JCAHO standards on pain
2 management to the sales force?

3 A. I do not recall.

4 Q. The next sentence says: "Bruce, I would
5 be curious to see if you thought this was an
6 opportunity worth exploiting."

7 Were you involved in any discussions with
8 Mr. Zollo or any of the other recipients of this
9 e-mail regarding exploiting the JCAHO standards on
10 pain management?

11 MS. STRONG: Objection to form.

12 THE WITNESS: I really can't remember any
13 conversations.

14 BY MR. ACKERMAN:

15 Q. During this time period, did Janssen sales
16 representatives reference the JCAHO standards on pain
17 management in their sales calls with prescribers?

18 MS. STRONG: Objection to form.

19 THE WITNESS: I do not recall that ever
20 being a focus of ours.

21 BY MR. ACKERMAN:

22 Q. If you move up to the next e-mail in the
23 chain which is on the first page, Bruce Moskovitz
24 writes: "The JCAHO directive is driving an NPC,
25 National Pharmaceutical Council, initiative that

1 several pharmaceutical firms are participating in.
2 I've asked Gary Vorsanger to take the lead in
3 representing Janssen with the NPC."

4 Do you see that --

5 A. I see it.

6 Q. -- line?

7 A. Yeah.

8 Q. And were you involved at all with the
9 National Pharmaceutical Council?

10 A. No.

11 Q. Did you participate in any discussions
12 concerning a National Pharmaceutical Council
13 initiative?

14 A. Not to any recollection, no.

15 Q. During the time period that you were
16 overseeing sales representatives selling Duragesic,
17 how did -- how did the sales representatives know
18 which prescribers to visit or to call on?

19 MS. STRONG: Objection to form.

20 THE WITNESS: Each representative would
21 have been given a list of prescribers from our
22 analytics department.

23 BY MR. ACKERMAN:

24 Q. As -- I think it was field sales manager?
25 Was that your title?

1 A. Yes.

2 Q. Did you have any input into the
3 formulation of those lists?

4 A. I did not.

5 Q. Let's go to another document. This will
6 be Number 3.

7 (Janssen-Ritchie Exhibit 3 was marked for
8 identification.)

9 BY MR. ACKERMAN:

10 Q. Mr. Zollo -- I'm sorry.

11 Mr. Ritchie, the court reporter has handed
12 you what has been marked as Deposition Exhibit
13 Number 3 which is a one-page document with Bates
14 Number JAN-MS-00247173. Take a moment to review the
15 document and let me know when you've had a chance to
16 review it.

17 A. Okay.

18 Q. This is an e-mail that you received,
19 correct?

20 A. I believe so, yes.

21 Q. I just want to ask about some of the terms
22 that are used in this e-mail and see if -- whether
23 you can help decipher some of the -- some of the code
24 language.

25 A. Yeah.

1 Q. The first sentence says: "The 500G and
2 275 office based representatives currently receive
3 the top 100 chronic pain targets in their territory
4 on an Early View Report."

5 So let's break some of that down. Do you
6 know what the reference to "500G" refers to?

7 MS. STRONG: I just want to make an
8 objection to much of the commentary that was
9 just made.

10 THE WITNESS: "500G" is the sales force.
11 I believe it was the 500 green, 500 reps.

12 BY MR. ACKERMAN:

13 Q. Okay. And what was the "500 green sales
14 force"?

15 A. It -- at that time, I believe, the best
16 recollection, it would be one of the teams that was
17 selling Duragesic.

18 Q. Is that the pain sales force or a separate
19 sales force?

20 A. That would be a separate sales force.

21 Q. And so, then, the next reference is the
22 "275 office." Do you see that?

23 A. I do.

24 Q. And what is the reference to the "275
25 office"?

1 A. That is the pain sales force.

2 Q. Does this mean that there were roughly 775
3 sales representatives selling Duragesic around this
4 time period, April 2001?

5 MS. STRONG: Objection to form.

6 THE WITNESS: I believe so.

7 BY MR. ACKERMAN:

8 Q. And then the last part of this sentence
9 references an "Early View report."

10 Do you recall viewing an Early View
11 report?

12 A. I must have, but I don't recall.

13 Q. Do you know what data was used to compile
14 the Early View report?

15 A. Not specifically, no.

16 Q. You mentioned earlier that, I think, it
17 was the analytics department that created the lists
18 of prescribers; is that right?

19 A. I may have the name wrong, but it was the
20 people that did that, I think it was, yes.

21 Q. This e-mail is sent by Beth Woodhead?

22 A. Yes.

23 Q. And at the bottom, it says that her -- I
24 assume it -- or at least underneath her name, it says
25 "Manager Business Information," correct?

1 A. Correct.

2 Q. Is business information an individual that
3 would have been in -- within that analytics
4 department that you were describing?

5 MS. STRONG: Objection to form.

6 THE WITNESS: They would have been, yes.

7 BY MR. ACKERMAN:

8 Q. Other than Early View, do you recall any
9 other data or tools that were used to select
10 prescribers that sales representatives would call on?

11 MS. STRONG: Objection to form.

12 THE WITNESS: I am not familiar with the
13 tools, no.

14 BY MR. ACKERMAN:

15 Q. And you weren't involved in that process?

16 MS. STRONG: Objection to form.

17 THE WITNESS: Which process?

18 BY MR. ACKERMAN:

19 Q. In the process of identifying target
20 prescribers?

21 A. No, I was not.

22 MR. ACKERMAN: Let's put that document
23 aside.

24 Can you mark this as Exhibit 4?

25 (Janssen-Ritchie Exhibit 4 was marked for

1 identification.)

2 BY MR. ACKERMAN:

3 Q. Mr. Ritchie, the court reporter has handed
4 you what's been marked as Deposition Exhibit
5 Number 4. It's a multipage document beginning with
6 the Bates number JAN-MS-03065505 and continuing
7 through JAN-MS-03065574. Take a moment to review
8 this document and let me know when you've had a
9 chance to get through it.

10 MS. STRONG: I would just note it's a
11 69-page document. Are you asking that he review
12 all of it?

13 MR. ACKERMAN: Just leaf through it, yeah.
14 There are specific pages I'll ask about.

15 BY MR. ACKERMAN:

16 Q. Do you recognize this document?

17 A. Not specifically, no.

18 Q. Turn to -- the first page is titled
19 "2002 Janssen Pain Franchise Review." It says
20 "March 25th, 2002," correct?

21 A. It's what it says, yes.

22 Q. And then the second page lists members of
23 the pain franchise team. Do you see that?

24 A. Yes.

25 Q. Do you recall being a member of the pain

1 franchise team?

2 A. I do.

3 Q. And is this the brand team that you were
4 referring to earlier?

5 MS. STRONG: Objection to form.

6 THE WITNESS: I'm not sure everybody on
7 this team is, but it's bigger than the brand
8 team.

9 BY MR. ACKERMAN:

10 Q. I just want to walk through each of these
11 names, and if you can just tell me the role that each
12 person played at this point in time on the pain
13 franchise team.

14 How about -- Janet Burns is the first
15 name?

16 MS. STRONG: And I just have an objection
17 to form as to each of these, the way that was
18 set up.

19 BY MR. ACKERMAN:

20 Q. What role did Janet Burns play on the --

21 A. She was --

22 Q. -- on the pain franchise team at this
23 point in time?

24 A. She was a secretary.

25 Q. And what -- for Kati Chupa, what were her

1 responsibilities on the pain franchise team at this
2 point in time?

3 MS. STRONG: Objection to form.

4 THE WITNESS: You see now, the roles and
5 things changed, so I'm going to go with my best
6 recollection.

7 BY MR. ACKERMAN:

8 Q. That's all I can ask for.

9 A. Kati Chupa was on the brand team.

10 Q. Were there any specific issues or aspects
11 that Kati Chupa was responsible for?

12 MS. STRONG: Objection to form.

13 THE WITNESS: I believe she was the senior
14 person on the team at that point. I'm not sure
15 when she assumed that role.

16 BY MR. ACKERMAN:

17 Q. How about Pam Dotter?

18 A. I believe she was on the brand team.

19 Q. And again, did Pam Dotter have specific
20 responsibilities within the brand team?

21 A. Not that I'm aware of.

22 Q. Alison Heightchew?

23 A. I don't know her role.

24 Q. Mike Lee?

25 A. Don't know his role.

1 Q. Rene Lenstra?

2 A. Don't know her role or his role.

3 Q. Jeff Mathis?

4 A. Don't know his role.

5 Q. Molly McDonald?

6 A. She was on the brand team.

7 Q. Was Molly McDonald responsible for any
8 specific issues or tasks within the brand team?

9 MS. STRONG: Objection to form.

10 THE WITNESS: Not that I'm aware of.

11 BY MR. ACKERMAN:

12 Q. Adrienne Minecci?

13 A. Minecci. She was on the brand team.

14 Q. And did Ms. Minecci have specific roles or
15 responsibilities within the brand team?

16 MS. STRONG: Objection to form.

17 THE WITNESS: Not that I'm aware of.

18 BY MR. ACKERMAN:

19 Q. Bruce Moskovitz, I think we've already
20 identified, correct?

21 A. Yes.

22 Q. Cheryl Pavia?

23 A. I believe she was in the medical side.

24 Q. When you say "the medical side," what do
25 you mean by that?

1 A. On the -- she would have -- I think would
2 have worked with Bruce Moskovitz on the medical side,
3 medical team.

4 Q. Tina Pinto?

5 A. Don't know.

6 Q. Marsha Phillips?

7 A. She was part of the medical team.

8 Q. And that next name is you, right?

9 A. Yes.

10 Q. Jeff Schein?

11 A. Part of the medical team.

12 Q. And Gary Vorsanger?

13 A. Part of the medical team.

14 Q. Bill Whyte?

15 A. He was on the brand team.

16 Q. Beth Woodhead?

17 A. She was the analytics person.

18 Q. And Ramineh Zoka?

19 A. Don't know.

20 Q. Okay. Did any of these individuals report
21 to you at this point in time?

22 A. At this specific time, I was on the field
23 side, so I was -- I was a sales representative for
24 this team.

25 Q. I see. This is before you became the

1 product director?

2 A. I believe so, yes.

3 Q. So do you recall whether you participated
4 in an in-person meeting on or about March 25th, 2002?

5 A. I do not recall.

6 Q. Regarding this document I mean.

7 A. I don't know.

8 Q. If you would turn to the page that's
9 marked 14, and it's Bates number -65518. So there is
10 a list here, and the first column says "Growth
11 drivers." Do you see that?

12 A. I see it.

13 Q. Okay. And then the first bullet point
14 says: "Recognized undertreatment of pain."

15 And then underneath that, it says:
16 "Increased awareness legislation to treat pain," and
17 it says: "JCAHO fifth vital sign."

18 Do you see that?

19 A. I do.

20 Q. Okay. As the field sales representative,
21 do you recall any discussions regarding JCAHO as a
22 growth driver of Duragesic?

23 A. No, I do not.

24 Q. And during the time you were a field sales
25 representative, do you recall any discussions

1 regarding "fifth vital sign" as a growth driver for
2 Duragesic?

3 A. To the best of my recollection, no.

4 Q. Do you know whether "fifth vital sign" was
5 a growth driver for Duragesic?

6 MS. STRONG: Objection to form.

7 THE WITNESS: This slide comes out of a
8 deck from Bruce Moskovitz, so these would have
9 been situations that are much more focused on
10 the medical side. I don't recall them ever
11 translating to field sales.

12 BY MR. ACKERMAN:

13 Q. The next bullet point there says:
14 "Acceptance of opioids for nonmalignant pain."

15 Do you see that?

16 A. I see it.

17 Q. Do you recall any discussions regarding
18 acceptance of opioids for nonmalignant pain as a
19 growth driver of Duragesic?

20 MS. STRONG: Objection to the form.

21 THE WITNESS: It would be the same answer,
22 that these -- everything on this slide would
23 have been medical-driven, and I don't recall any
24 of it coming to the field.

25

1 BY MR. ACKERMAN:

2 Q. Is it your belief that this slide was not
3 relevant to the sales efforts for Duragesic?

4 MS. STRONG: Objection to form.

5 THE WITNESS: I don't have a belief either
6 way. I just know that this component of the
7 deck was designed more for a medical update than
8 it was a pain update, or for that matter sales
9 update.

10 BY MR. ACKERMAN:

11 Q. Is there a portion of this deck that you
12 believe that was designed for a sales update?

13 A. I do not believe it, no.

14 Q. Okay. Under the category "Growth
15 inhibitors," do you see that on this same slide?

16 A. I do.

17 Q. And it says: "Perceived risks of
18 opioids"?

19 A. Yeah.

20 Q. And then the second bullet point under
21 there says: "Fear of government DEA."

22 Were any instructions given to the sales
23 representatives concerning fear of government DEA as
24 a perceived risk of opioids?

25 A. Not to my recollection.

1 Q. The sales representatives that you oversaw
2 at this time were visiting prescribers, correct?

3 A. Yes.

4 Q. And so these are issues, if I understand
5 what you're saying, that affect prescribers; is that
6 right?

7 MS. STRONG: Objection to form.

8 THE WITNESS: No. I didn't say that.

9 BY MR. ACKERMAN:

10 Q. Okay. The issues on this slide, when you
11 say they are "medical issues," what do you mean by
12 that?

13 A. They were issues raised by our medical
14 department. They would have been seeing things in a
15 bigger scope than what we were seeing in the field.

16 Q. And why were they raised by the medical
17 department?

18 MS. STRONG: Objection to form.

19 THE WITNESS: I'm not sure why they were
20 raised.

21 BY MR. ACKERMAN:

22 Q. This is a slide deck for the Janssen pain
23 franchise, correct? That's what the title page says?

24 A. Yes. Pain franchise team, yes.

25 Q. And at this point in time, what was the

1 Janssen pain franchise?

2 MS. STRONG: Objection to form.

3 THE WITNESS: I don't specifically know
4 what this exact team was about.

5 BY MR. ACKERMAN:

6 Q. If you just look at the first page, the
7 very first page of this document, it says: "Janssen
8 pain franchise review," correct?

9 A. Yes.

10 Q. You heard that term used during your
11 tenure at Janssen, "Janssen pain franchise."

12 A. I've heard it used, but I am not sure
13 specifically what it was in reference to.

14 Q. Okay. If you turn to page 28 of this
15 document, and it's titled "SWOT analysis," right?

16 Do you have an understanding of what
17 "SWOT" stands for?

18 A. I do.

19 Q. What is that?

20 A. Strengths, Weakness, Opportunities, and
21 Threat.

22 Q. Is that a term that's used regularly at
23 Janssen?

24 MS. STRONG: Objection to form.

25 THE WITNESS: When business plans are put

1 together, yes.

2 BY MR. ACKERMAN:

3 Q. If you would turn to the next page,
4 please, which is page 30, and this appears to list
5 the strengths and weaknesses. I can see that you're
6 flipping through the document.

7 Were you looking for something in
8 particular?

9 A. I was trying to see who would have
10 generated this specific page.

11 Q. I was curious about that, too, actually,
12 and that was going to be one of my questions, whether
13 you knew who would have generated this page.

14 A. I do not.

15 Q. Okay. Is it -- is this something that was
16 likely to have come from the brand team?

17 MS. STRONG: Objection to form.

18 THE WITNESS: I could -- I have no idea
19 who would have created this.

20 BY MR. ACKERMAN:

21 Q. If you'd look under "Strengths," the list
22 of strengths, there is a reference to the focused
23 chronic pain sales force, correct?

24 A. Yes.

25 Q. And that's the pain sales force that you

1 described earlier?

2 MS. STRONG: Objection to form.

3 BY MR. ACKERMAN:

4 Q. Is that the pain sales force that you
5 described earlier?

6 A. Not knowing who created this document,
7 it's impossible to know who they're referencing here.

8 Q. Was there more than one pain sales force
9 at Janssen?

10 MS. STRONG: Objection to form.

11 THE WITNESS: At different times, we had
12 different people selling Duragesic.

13 BY MR. ACKERMAN:

14 Q. At this time in 2002, what sales force was
15 selling Duragesic?

16 A. I don't know. I'm not sure -- you know,
17 we talked about the 500G before. I'm not sure when
18 they came in and when this went out. Different
19 times -- you know, this was a very dynamic time, and
20 so different sales forces came in and out so I don't
21 know the exact who was selling at this time.

22 Q. If you wanted to find out who was selling
23 at this time, who would you ask?

24 MS. STRONG: Objection --

25 THE WITNESS: I would go to -- sorry.

1 MS. STRONG: Objection to form.

2 THE WITNESS: I would go back to analytics
3 department because they would have generated
4 core plans for the different sales forces, and
5 they would have included Duragesic.

6 BY MR. ACKERMAN:

7 Q. The next bullet point says "Alza
8 expertise." Do you know what Alza is?

9 A. I believe it's a company that J&J bought,
10 but -- I know the name, but I'm not exactly sure what
11 they do.

12 Q. Okay. There are bullet points underneath
13 this box. The third bullet point says: "Alza
14 equals" -- and it's got an arrow up -- "Duragesic
15 profitability."

16 Do you recall any discussions with anyone
17 regarding Alza potentially increasing Duragesic
18 profitability?

19 A. I do not.

20 Q. The next page, which is page 31 of this
21 document, lists "Opportunities and threats," correct?

22 A. Yes.

23 Q. Under "Threats," the first one is "Generic
24 competition/internal patent expertise."

25 I think you had already described the

1 generic competition for Duragesic; is that right?

2 MS. STRONG: Objection to form.

3 THE WITNESS: A couple of things; if you'd
4 just tease out which one you're asking first,
5 please?

6 BY MR. ACKERMAN:

7 Q. Sure, sure. And so what at this time in
8 2002 was the generic competition for Duragesic?

9 MS. STRONG: Objection to form.

10 THE WITNESS: I don't believe -- I don't
11 know if the generic competition was there or it
12 was anticipated.

13 BY MR. ACKERMAN:

14 Q. Do you know what the reference to
15 "internal patent expertise" is referring to?

16 A. No. Sorry. No.

17 Q. And same question for competition for
18 "Alza development resources." Do you know what that
19 refers to?

20 A. I do not.

21 Q. Then the next bullet point says: "Abuse
22 publicity - increased media, regulatory, political,
23 and legal scrutiny."

24 Do you see that?

25 A. I see it.

1 Q. Do you recall any discussion with the
2 sales force concerning abuse publicity?

3 A. I do not.

4 Q. If you move down this list, the
5 second-to-last bullet point says -- and this is
6 italicized -- "Lack of expert consensus on 'limited
7 abuse potential.'"

8 Do you see that?

9 A. I see it.

10 Q. Do you know what this bullet point is
11 referring to?

12 A. I do not.

13 Q. Did you participate in any discussions in
14 Janssen with anyone regarding a lack of expert
15 consensus on limited abuse potential?

16 A. I do not recall that conversation.

17 Q. And the last bullet point says:
18 "Analgesic guidelines require data, risk" -- I think
19 that's "management programs EBM."

20 Do you see that?

21 A. I see it.

22 Q. First question: Are you familiar with the
23 acronym "EBM"?

24 A. I am not.

25 Q. Neither am I.

1 Do you know or do you have any knowledge
2 as to what this bullet point might be referring to?

3 A. I do not.

4 Q. And did you participate in any discussions
5 with anyone at Janssen concerning analgesic
6 guidelines requiring data?

7 A. Not to my recollection.

8 Q. And I assume when you look -- go to the
9 bottom of the page, there is a bullet point that
10 says: "No clinical data." Do you see that?

11 A. Yeah.

12 Q. And do you know what that refers to?

13 A. I do not.

14 Q. And did you recall any discussions with
15 anyone at Janssen concerning the presence or absence
16 of clinical data with respect to Duragesic?

17 MS. STRONG: Objection to form.

18 THE WITNESS: I do not.

19 BY MR. ACKERMAN:

20 Q. If you turn to page 34 -- and, actually,
21 so page 33 of this document says "Strategic
22 objectives." Do you see that?

23 A. I do.

24 Q. And then there is a slide on page 34 --
25 what I assume is a slide -- and there are bullet

1 points at the bottom. The last bullet point says:

2 "Alza and L.A." Do you know what that refers to?

3 A. I do not.

4 Q. All right. Thought maybe it might jog
5 your memory as to what Alza was, but -- it was worth
6 a shot.

7 Next page says: "Strategy formation."

8 And then there is a slide following that
9 on page 36, and the second bullet point says: "Drive
10 development of BLOCK," B-L-O-C-K, in capital letters,
11 "to replace Duragesic."

12 Do you see that bullet point?

13 A. I see it.

14 Q. Do you know what "BLOCK" refers to on this
15 document?

16 A. No.

17 Q. Okay. There is a -- in parentheses, it
18 says: "01/05."

19 Does that mean anything to you?

20 A. No, it doesn't.

21 Q. Okay. The last bullet point in this box,
22 again, says: "Fully develop all new products," and
23 then it says: "Alza, L&A."

24 Does that help as to whether you recall
25 what "Alza" or "L&A" might stand for?

1 A. In this definition, I believe "L&A" is
2 licensing and acquisition, and there might have been
3 an "A" missing in the previous line.

4 Q. Got it.

5 A. But I don't know -- it still doesn't jog
6 my memory what Alza is, sorry.

7 Q. That's -- thank you. There is a reference
8 at the bottom to "Project BLOCK." You ever heard of
9 Project BLOCK?

10 A. No.

11 Q. And then the next page says: "Key
12 initiatives," right?

13 And then the next slide, which is page 38,
14 has what is unfortunately some very small text, but I
15 think we can, at the least, see it on the screen
16 here.

17 MS. STRONG: What page is this?

18 MR. ACKERMAN: I'm sorry. It's page 38 of
19 the -- of the exhibit.

20 MS. STRONG: Thank you.

21 BY MR. ACKERMAN:

22 Q. And do you recall ever seeing this slide
23 before?

24 A. Not to my recollection.

25 Q. Okay. So the first -- I don't even know

1 how to describe this -- but there is a -- four
2 columns that look sort of like arrows, I guess.

3 And the first column, the header says:
4 "Maximize Duragesic product life cycle," and then the
5 second bullet point there, it says: "Reposition
6 matrix patches."

7 You see that?

8 A. I do.

9 Q. Do you know what that might refer to?

10 A. I do not.

11 Q. Do you have -- recall any discussions with
12 anyone at Janssen concerning repositioning matrix
13 patches?

14 A. I do not.

15 Q. Then there is another reference to "BLOCK"
16 in the next column over.

17 I assume that doesn't jog your memory as
18 to what "BLOCK" might be.

19 A. No.

20 Q. The last column says: "Fully develop all
21 new products, Alza, L&A."

22 Still no idea what Alza might be?

23 A. No.

24

25

1 (Attorneys' Eyes Only.)

2 (***) The following documents, Janssen-Ritchie Exhibit
3 5 and Janssen-Ritchie Exhibit 6, and any testimony
4 pertaining thereto are separated as Attorneys' Eyes
5 Only, beginning as follows:)

6 (Janssen-Ritchie Exhibit 5 was marked for
7 identification.)

8 BY MR. ACKERMAN:

9 Q. All right. Let's put that one aside.

10 The next document is one that was produced
11 to us in native format, so I believe we've printed
12 the native. Unfortunately, we don't have the slip
13 cover sheet with it. So I can -- I have the
14 reference to the --

15 A. What does "native" mean?

16 Q. It was produced to us as -- instead of as
17 images, it was produced to us as a file.

18 A. Okay.

19 Q. As a computer file. So this document that
20 I believe we're marking as Exhibit 5, is
21 JAN-MS-02774660.

22 Take a moment to leaf through this
23 document and let me know when you have a chance to
24 review it. Again, I have questions on specific
25 pages.

1 A. Okay.

2 Q. Do you recognize this document?

3 A. I recognize the graphics but not the
4 document.

5 Q. It's a -- it's titled "2004 Business
6 Plan." And you testified earlier that you were
7 involved in the formation of a business plan for
8 Duragesic.

9 Is this the business plan that you were
10 involved in?

11 A. I don't -- I'm not sure.

12 Q. August 6th, 2003, is the date. Do you
13 recall whether you were product director by this
14 time?

15 A. This is a cusp moment. I'm not sure,
16 yeah.

17 Q. Sure. So I have a couple questions and,
18 unfortunately, I think the pages are not numbered, so
19 it might be a little bit difficult. But if you turn
20 to the page -- maybe four pages in -- that's
21 referenced -- it's titled "Market Analysis."

22 A. Okay.

23 Q. And then it's the next slide behind that
24 which, again, is titled "Market Analysis." And some
25 of these -- some of these bullet points, I think, are

1 similar to the bullet points that we saw earlier.

2 So looking at "Growth drivers," the first
3 one says: "Recognized undertreatment of pain."

4 And as product director, do you recall any
5 discussions with anyone at Janssen concerning
6 recognized undertreatment of pain as a growth driver
7 for Duragesic?

8 A. As I mentioned, I wasn't sure if I was
9 product director at this time. And I'm also, while I
10 recognize some of the graphics, I don't know what
11 this document was generated for, so I don't recall
12 that conversation.

13 Q. Okay. And do you recall any discussions
14 regarding the next bullet point: "Increased
15 awareness legislation to treat pain as a growth
16 driver for Duragesic"?

17 A. I do not.

18 Q. And same for the next one: "Mandatory
19 CE/CME training"?

20 A. Yes, and I don't recognize it at all.

21 Q. Did Janssen provide CE/CME training to
22 prescribers in connection with Duragesic?

23 A. I don't know for sure, no.

24 MS. STRONG: I just want to note for the
25 record that I believe this document is an

1 attorneys' eyes only document and that it ought
2 to be protected as such.

3 I think it's fine to be showing it to this
4 particular witness, but just wanted to note that
5 it's marked -- I believe it's marked that way in
6 connection with the production.

7 MR. ACKERMAN: Thank you. Thank you for
8 that clarification.

9 BY MR. ACKERMAN:

10 Q. And then the same question for the next --
11 well, the next major bullet point that says:

12 "Acceptance of opioids for noncancer pain."

13 Again, do you recall any discussion at
14 Janssen regarding acceptance of opioids for noncancer
15 pain as a growth driver for Duragesic?

16 A. Not specifically, no.

17 Q. Moving over to the other side, the other
18 column, again, "Perceived risks of opioids," do you
19 recall any discussion at Janssen concerning perceived
20 risks of opioids as a growth inhibitor for Duragesic?

21 A. Not specifically, no.

22 Q. And same question for "Increased
23 regulatory scrutiny."

24 Do you recall any discussions?

25 A. I do not, to the best of my recollection.

1 Q. Next bullet point, "Limited evidence-based
2 scientific data." Do you know what that refers to?

3 A. I do not.

4 Q. And do you recall any discussions at
5 Janssen concerning limited evidence-based scientific
6 data as a growth inhibitor for Duragesic?

7 A. No, I don't, sir.

8 Q. If you move to the next -- I believe it's
9 the next section that was titled "Customer Analysis."
10 And then the next slide says: "Duragesic customer
11 analysis," but it's actually two slides later that I
12 want to look at that's titled "PC Green Sales Force
13 Targets."

14 Do you see this slide?

15 A. I do.

16 Q. And do you know what "PC Green" refers to?

17 A. It was the name of a sales force, Primary
18 K Green.

19 Q. Is that the 500 Green that we saw earlier?

20 A. I believe so, but I'm not 100 percent
21 sure.

22 Q. Okay. And then I just want to see if I
23 can understand what this chart means if you
24 understand it.

25 The first column says "CP." Do you know

1 what "CP" refers to there?

2 A. I believe it's chronic pain.

3 Q. And then "April '03 decile." Do you know
4 what that refers to?

5 A. The target universe or the universe that
6 we were calling on was broken into deciles. So if
7 you had 1,000 doctors, it would be -- 100 would be
8 9s, 100 would be 8s, 100 would be 7s, based upon
9 their volume of prescribing, not
10 specifically Duragesic, to the market.

11 Q. I understand. So the 90 is the top
12 10 percent in volume of prescribers or volume of
13 prescriptions? The top 10 percent of prescribers
14 measured by volume of prescriptions?

15 MS. STRONG: Objection to form.

16 THE WITNESS: Yes.

17 BY MR. ACKERMAN:

18 Q. And then the next column says: "Mean
19 dollars"?

20 A. I don't know what that definition means.

21 Q. Okay. And the next column says: "Mean
22 TRXs."

23 MS. STRONG: Just wait for a question,
24 please.

25

1 BY MR. ACKERMAN:

2 Q. Do you know what the -- what that column
3 means, "TRXs" means?

4 A. I speculate that the "mean" is the mean.
5 It would be the -- the average or the -- just in data
6 terms, "mean" is the -- I guess it's the number
7 that's in the middle.

8 Q. Right.

9 A. But that's speculation.

10 Q. I think so. It's been a while since I've
11 dealt with means and medians.

12 What does "TRX" stand for?

13 A. Total prescriptions. I believe it's total
14 prescriptions.

15 Q. "Number of physicians." Do you know what
16 that means?

17 A. This is the number of physicians in each
18 of the deciles.

19 Q. And then "Total TRXs." Do you have an
20 idea as to what that means?

21 A. Yes. So that's the total number of
22 prescriptions that would be generated by that decile.
23 I'm not sure if they're specific to chronic pain or
24 to any specific brand.

25 Q. All right. And then the last one, the

1 last column is "Percentage of total CP TRXs."

2 Do you know what that might refer to?

3 A. Not specifically. Sorry.

4 Q. Then, again, if you turn to two pages
5 down?

6 A. There you go.

7 Q. And this, under "2003 LAO deployment," do
8 you see that?

9 A. Yes.

10 Q. Perhaps this may help with the question we
11 were discussing earlier, but the first column says
12 "Janssen," right? Or the first row?

13 A. Yes.

14 Q. Or the second row, I guess. The first row
15 is the headers.

16 And then it says: "SOV equals
17 27 percent/24 percent."

18 Do you know what that refers to?

19 A. Share of voice.

20 Q. What does "share of voice" mean?

21 A. It was the amount of time that we were
22 seeing the customers versus the competition. That's
23 my definition.

24 Q. Understand. And then the next column,
25 "Sales force."

1 So does this indicate that there were
2 three separate sales forces selling Duragesic to --
3 at this point in time?

4 A. To my recollection, yes.

5 Q. So the first one is the "Green sales
6 force"?

7 A. Yes.

8 Q. And to whom was the green sales force
9 selling Duragesic?

10 A. I'm not 100 percent sure. To my
11 recollection, it was the pain sales force.

12 Q. The pain sales force was the green sales
13 force?

14 A. Yeah. As I mentioned before, there was
15 evolution. That's why I wasn't be able to give you
16 numbers before. These things morphed, and there was
17 a dynamic process where different sales forces became
18 relevant in different years. So at this time, I
19 believe the Green sales force was the primary sales
20 force selling Duragesic.

21 Q. I understand. And the pain sales force by
22 this point in time, what had happened to it?

23 A. I believe it morphed into the Green.

24 Q. Thank you.

25 The "Hospital sales force" may be obvious,

1 but to whom were the hospital sales force selling
2 Duragesic?

3 A. They were calling on hospitals, yeah.

4 Q. And then the "Elder sales force," to whom
5 would the elder care sales force be selling?

6 A. Not 100 percent sure, but I believe their
7 key focus was long-term care.

8 Q. And then the last, so the next column
9 says: "Number of reps."

10 And, I assume -- is it correct that that
11 refers to the number of sales representatives in each
12 of these sales forces?

13 A. That's how I read it, yes.

14 Q. And then the last column says: "Detailing
15 prioritization." Do you see that?

16 A. I do.

17 Q. I just want to understand what each of
18 these acronyms means. I think I know many of them,
19 but let's just make sure we're on the same page.

20 "DUR," what does "DUR" stand for?

21 A. Duragesic.

22 Q. And then "ACX," what does "ACX" stand for?

23 A. Aciphex.

24 Q. What was Aciphex?

25 A. It was a cardiovascular drug.

1 Q. "ULT"?

2 A. Ultram.

3 Q. And what is Ultram?

4 A. It's an analgesic.

5 Q. Okay. And then "SPX"?

6 A. Sporidex.

7 Q. And what is Sporidex?

8 A. An antifungal.

9 Q. The next line, we have got "DUR" again.

10 "RIS"?

11 A. Risperdal.

12 Q. And what is Risperdal?

13 A. Antipsychotic.

14 Q. And then "REM"?

15 A. It's Remicade.

16 Q. What is Remicade?

17 A. I don't recall specifically.

18 Q. And then --

19 A. For Alzheimer's, I believe.

20 Q. Okay. And it looks like that covers all
21 of the unique acronyms in that box, so thank you very
22 much.

23 A. Yeah.

24 MS. STRONG: Are you done with the
25 document?

1 MR. ACKERMAN: I'm not, but we have been
2 going about an hour. If you want to take a
3 break now, I'm happy to do it. If you want to
4 go a little further, we can as well.

5 MS. STRONG: Yeah, I think we probably
6 ought to take a break.

7 THE WITNESS: Yeah, if you wouldn't mind.

8 MR. ACKERMAN: Okay.

9 MS. STRONG: Thanks.

10 MR. ACKERMAN: Let's go off the record.

11 VIDEOGRAPHER: Off the record at

12 10:57 a.m.

13 (A recess transpired from 10:57 a.m. until
14 11:13 a.m.)

15 VIDEOGRAPHER: On the record 11:13 a.m.

16 BY MR. ACKERMAN:

17 Q. All right. Back on the record, still
18 working with Exhibit 5.

19 And, Mr. Ritchie, if you would turn a few
20 pages in, there is a -- or a few pages further, there
21 is a title page titled "Internal Assessment."

22 And then the first slide after that, which
23 also is titled "Internal Assessment," the first
24 header says "Lessons Learned."

25 Do you know what that means, "Lessons

1 Learned"? From what?

2 A. I don't know what it specifically means
3 here, but it -- generally when this has been used in
4 our company, it's just since the last plan, what have
5 we learned from that?

6 But that's my definition. I've seen this
7 as a Janssen term, but I don't know how to
8 specifically utilize it.

9 MS. STRONG: Okay. Can I have a moment,
10 just a technical issue?

11 MR. ACKERMAN: Yeah.

12 (Discussion had off the record.)

13 MR. ACKERMAN: Ready?

14 MS. STRONG: Thank you. All good. Thank
15 you.

16 MR. ACKERMAN: Sure.

17 BY MR. ACKERMAN:

18 Q. The first bullet point under "Lessons
19 Learned" says: "Functionality positioning, alliance
20 with physician, and patient's end goal of therapy."

21 Do you see that?

22 A. I read it, yes.

23 Q. Okay. The phrase "functionality
24 positioning," is that a phrase that you've heard used
25 at Janssen before?

1 MS. STRONG: Objection to form.

2 THE WITNESS: Not specifically, no.

3 BY MR. ACKERMAN:

4 Q. You say "not specifically."

5 Have you generally heard discussions
6 regarding functionality or functionality positioning?

7 A. I have a vague recollection of
8 functionality being included in some of what we've
9 done, yes.

10 Q. And what do you -- do you have an idea of
11 what this means by "functionality," what it's
12 referring to?

13 A. It would be nice to know who was
14 discussing this. And I'm not even sure this internal
15 assessment was.

16 It wasn't a field document, so it would
17 have been something more to the brand, so I don't
18 really know where they were going.

19 Q. Okay. The next bullet point says:
20 "Focused sales force efforts drives results."

21 Do you know what that bullet point is
22 referring to?

23 A. Not specifically. I'm sure I could
24 speculate.

25 Q. Okay. And then if you move across the

1 page under the "Implications" header, it says:

2 "Targeting SOV and resources drive growth."

3 Do you see that?

4 A. I do.

5 Q. What does "SOV" stand for? Do you know?

6 A. Yes, share of voice.

7 Q. That's right.

8 Moving back to the left-hand side of the
9 page, there is a bullet point that says: "PCP focus
10 is critical."

11 MS. STRONG: Question?

12 BY MR. ACKERMAN:

13 Q. What -- do you have an understanding as to
14 what "PCP" means?

15 A. Primary care physician.

16 Q. Thank you. Do you recall any discussion
17 at Janssen concerning whether focused sales efforts
18 drive results for Duragesic?

19 A. I do not recall that conversation.

20 Q. Okay. Do you recall whether you've seen
21 this slide deck before today?

22 A. As mentioned before, there are certain
23 graphics that pop at me, but I don't recall the
24 specific document, no.

25 Q. In the course of discussing it today, has

1 that jogged your memory at all as to whether you had
2 participated in a meeting or discussed this with
3 anyone at Janssen?

4 A. It has not.

5 Q. Turn a few more pages in. There is a
6 header that says "Strategy Formation." That page
7 says: "Duragesic Positioning Statement. Duragesic
8 significantly improves physical and social
9 functioning by providing the only chronic pain relief
10 that is consistent and effective for 72 hours."

11 Do you see that?

12 A. I see it, yes.

13 Q. Do you know whether -- do you have an
14 understanding as to what this document means by
15 "Duragesic Positioning Statement"?

16 A. Yeah. To my understanding, this is a
17 document that was going to help drive the
18 communication focus for the field, but I don't know
19 if this was the final version or what version this
20 was and if this became real or was just a proposed.

21 Q. Okay. So the date of this document is
22 August 6th, 2003?

23 A. Yeah.

24 Q. In the years prior to this document, you
25 were a field sales representative, correct, or a

1 field sales director? Is that what it was called?

2 A. I was, prior years. And as I mentioned, I
3 wasn't sure if I was a field sales director or on the
4 brand at this point, either. I could have still been
5 a field sales director during this piece. It was
6 close.

7 Q. Right. But part of your responsibilities
8 in the years prior to this Exhibit 5, or at least the
9 date on the Exhibit 5 --

10 A. Yeah.

11 Q. -- involved oversight of the Duragesic
12 sales force; is that correct?

13 A. Correct. Oversight of the people. I
14 mean, it was, as I said, the job was more -- was more
15 people centric than product centric because there
16 were other brands that we potentially could have sold
17 as well.

18 Q. Can you explain what that means, "the job
19 was more people centric than product centric"?

20 A. I wasn't creating the messaging. My job
21 was more to ensure the execution of the messaging
22 was -- was -- went through as, you know, without a
23 hitch.

24 Q. You weren't creating the messaging, but
25 were you aware of the messaging?

1 A. Before it went to the sales force, yes.

2 Q. And now turning back to Exhibit 5, this
3 notion that -- or this statement that "Duragesic
4 significantly improves physical and social
5 functioning by providing the only chronic pain relief
6 that is consistent and effective for 72 hours," was
7 that a message that had been communicated to the
8 sales force during your tenure as field sales
9 director?

10 A. I don't believe that that specific
11 language was the -- was what was communicated.

12 Q. Okay. The next page looks to me to
13 have -- and I don't know whether this is an actual ad
14 or a sample ad -- but it says: "1,360 loaves and
15 counting, work uninterrupted."

16 Do you see that?

17 A. I do.

18 Q. And then underneath, it says: "Chronic
19 pain relief that supports functionality."

20 Do you see that?

21 A. I do.

22 Q. Do you recall whether this -- have you
23 seen -- putting aside the Exhibit 5 document, have
24 you seen this particular marketing piece before?

25 A. So I have seen the graphic. I'm not -- I

1 don't know for sure that this was the language we
2 would have finally utilized.

3 Q. Okay. I understand.

4 Did Janssen utilize something similar in
5 form to this document as a marketing piece for
6 Duragesic?

7 A. I believe so. The words I recognize, I
8 recognize the picture, and I recognize the "work
9 uninterrupted."

10 As I say, the language on the right could
11 be draft form. I don't know if that specific
12 language was used.

13 Q. And so my question is: Had this marketing
14 piece, or at least the form of this marketing piece,
15 the "work interrupted" [sic] message -- let me ask
16 only one question.

17 Had the "work interrupted" marketing
18 message been distributed to the sales force prior to
19 August 2003?

20 MS. STRONG: Objection to form.

21 THE WITNESS: I don't know the timing.

22 BY MR. ACKERMAN:

23 Q. Do you recall whether, when you were field
24 sales director of the sales force, whether sales
25 representatives were using this "work interrupted"

1 message?

2 MS. STRONG: Objection to form.

3 THE WITNESS: Yeah, I just don't know. I
4 recall the message, the language. I don't know
5 when it went into play and what my role was at
6 the time it went into use, yeah.

7 BY MR. ACKERMAN:

8 Q. And did you have any input into this
9 message?

10 A. I did not.

11 Q. Is this "work uninterrupted" marketing
12 piece a functionality or an example of a
13 functionality message?

14 MS. STRONG: Objection to form.

15 THE WITNESS: I don't know for sure.

16 BY MR. ACKERMAN:

17 Q. If you would turn to the next page. And
18 this page at the top says: "Strategy Formation," and
19 then on the right side says: "Brand Strategy
20 Development."

21 Do you see that?

22 A. I do.

23 Q. The first bullet point under "Duragesic
24 Core Strategies" says: "Leverage functionality
25 positioning to differentiate Duragesic from the

1 competition."

2 Do you see that bullet point?

3 A. I do. I read it, yes.

4 Q. Do you recall any discussions regarding
5 leveraging functionality positioning to differentiate
6 Duragesic from the competition?

7 A. I do not recall any conversations.

8 Q. Do you have an understanding as to what
9 "functionality positioning" means?

10 A. I do.

11 Q. And what does that mean?

12 A. The same concept that we had before with
13 this "work uninterrupted" would be a functionality
14 component, I guess.

15 Q. And why is the "work uninterrupted" a
16 functionality component?

17 MS. STRONG: Objection to form.

18 THE WITNESS: To my recollection, that
19 just seemed that those -- that's what I'm
20 recalling in my head. I'm not sure exactly why.

21 BY MR. ACKERMAN:

22 Q. So does the word "functionality" refer to
23 the ability of the patient to function in everyday
24 life?

25 A. I'm not sure, for sure, but that seems to

1 be about right.

2 Q. Thank you. The next page, if you look in
3 this first column, couple of -- in the last bullet
4 point -- I think we've talked about the rest of
5 this -- but "Continue to leverage KOL relationships."

6 Did you have any involvement in key
7 opinion leader relationships for Duragesic?

8 A. At any time?

9 Q. Yes.

10 A. I mean, I -- I knew who they were, and I
11 would have conversations with specific ones, but I
12 never specifically introduced or developed anybody.

13 Q. As product director, did you --

14 A. As product director -- sorry. Finish your
15 question.

16 Q. Well, that was, I guess, my next question
17 since you said "at any point in time."

18 What position did you hold at the time
19 that you knew who the key opinion leaders were and
20 had conversations with them from time to time?

21 A. It was when I was in the brand.

22 Q. As product director?

23 A. Product director, yes.

24 Q. Do you know what "NPEC" stands for? First
25 column, second-to-last bullet point there, says

1 "NPEC"?

2 A. I can speculate, but I'm not sure.

3 Q. Have you heard that acronym before?

4 A. I have, but this is an acronym.

5 Q. Sure. In what context have you heard that
6 acronym?

7 A. It's in the back of my mind. I believe it
8 would have been when I was in the brand. I think it
9 means National Pain Executive Committee, but I'm not
10 sure.

11 Q. And what is the National Pain Executive
12 Committee?

13 A. As soon as I said it, I don't know what
14 that is either so --

15 Q. All right. I assume you hadn't. Did you
16 have any involvement with the National Pain Executive
17 Committee?

18 A. I did not. To my best recollection, yeah.

19 Q. Is that a Janssen committee, or an outside
20 entity?

21 MS. STRONG: Objection to form.

22 THE WITNESS: I do not know.

23 BY MR. ACKERMAN:

24 Q. And then the next bullet point says:

25 "National Pain Summit." Do you see that?

1 A. I do.

2 Q. Do you know what that is?

3 A. Not specifically.

4 Q. Generally, do you know what it is?

5 A. I believe it's a summit that we hosted as
6 the brand, but I'm not sure. It's one of those ones,
7 it's in there somewhere, but it doesn't do
8 anything -- too specifics to it.

9 Q. Okay. Next page says: "Market Research -
10 2004 Key Projects."

11 And there are some things listed here as
12 major projects. I'm just -- the first one says:
13 "PhysPulse A&U Tracking Study."

14 Do you see that?

15 A. I do.

16 Q. Do you know what that refers to?

17 A. Not that specific language, no.

18 Q. Do you know what "A&U" stands for?

19 A. I do not.

20 Q. Have you heard the term "PhysPulse"
21 before?

22 A. I have.

23 Q. In what context?

24 A. I would be speculating. I believe this
25 was surveys that were done following references, but

1 I'm not sure.

2 Q. I guess my question is: Is PhysPulse an
3 entity, or is it a -- a --

4 A. I don't know. I'm sorry.

5 Q. You don't know the name?

6 A. No.

7 Q. Okay. Thank you.

8 A. Actually, I was wrong. My previous was
9 wrong. I'm looking down further down. That message
10 recall would have been something different, so sorry.
11 I don't know that at all.

12 Q. Okay. And so let's address that one,
13 "Regional message recall studies."

14 Do you have an understanding of what that
15 refers to?

16 A. I do.

17 Q. And what is that?

18 A. There is a vendor that -- I don't know how
19 they contact the customer. So they would have a list
20 of the customers that a representative has seen.
21 They would then ask them questions as to what part of
22 the message was, did they recall seeing. And then we
23 would get a report back on that message.

24 It was directional only because normally
25 the number of customers that were contacted would be

1 very small. So some one I remember, like, six people
2 So you try to see trends over time, but it was -- it
3 -- you know, you would get six good ones and six bad
4 ones. It's hard to tell. It was just purely
5 information.

6 Q. Do you recall the name of the vendor who
7 conducted the --

8 A. I do not.

9 Q. -- message recall studies?

10 A. I do not.

11 Q. Above that, there is a reference to
12 "campaign tracking analysis."

13 Do you know what that refers to?

14 A. I'm assuming it has the -- the "campaign"
15 would have been the functionality campaign, so that
16 would be some analysis done to track the campaign,
17 but I don't know.

18 Q. Okay. And then in that next box down, it
19 says: "Secondary data analysis." Do you know what
20 that refers to?

21 A. I do not. No, I do not.

22 Q. The next box references "Fastape Plus
23 Studies." Have you ever heard that phrase before?

24 A. I have not.

25 Q. Do you know what that refers to?

1 A. I do not, sorry.

2 Q. The next page, it says: "Results
3 required," and then there is a slide after that.

4 The fourth bullet point down says:
5 "Continue to build a solid foundation for the Janssen
6 pain franchise and future launch of AP48."

7 Do you see that?

8 A. I do.

9 Q. Do you know what "AP48" refers to?

10 A. I know it was a project that someone was
11 working on, but I don't know the specifics.

12 Q. Was it a drug that was in development?

13 A. I don't know if it was a drug or a
14 campaign.

15 Q. Okay. And then the last page, it says
16 "Summary."

17 A. Uh-huh.

18 Q. And the second bullet point says:
19 "Duragesic will 'own' functionality and differentiate
20 versus competition," and the word "own" is in
21 quotation marks.

22 Were you involved in any discussions with
23 anyone at Duragesic -- at Janssen concerning
24 Duragesic owning functionality?

25 A. I do not recall that I was. I don't

1 recall that I was.

2 Q. Okay. Was functionality an important
3 message for the Duragesic brand?

4 A. I don't know if it was important enough,
5 but I do know it was a campaign, yeah.

6 Q. Let's put that document aside.

7 I want to ask you one question about your
8 time as field sales director when you were overseeing
9 the sales force that I had forgotten to ask, and that
10 is: During your time as field sales director, were
11 there procedures in place for sales representatives
12 to report incidents of potential diversion?

13 A. Not that I recall.

14 Q. Okay. And do you have a -- do you
15 understand -- what is your understanding of the
16 meaning of the term "diversion"?

17 A. I was actually going to ask you the same
18 thing, as I gave you my answer. So maybe it would be
19 if you gave me yours, then, yeah.

20 Q. Sure. So here's how I am using
21 "diversion," and that is that "diversion" is a -- a
22 prescription drug that is not used for its intended
23 purpose, so it is diverted in some way.

24 A. Okay.

25 Q. Is that consistent with your

1 understanding?

2 A. That would be my general, yeah,
3 common-sense approach, yes.

4 Q. So with that understanding, were there any
5 procedures for sales representatives to report
6 potential incidences of diversion?

7 MS. STRONG: Objection to form.

8 THE WITNESS: To my best recollection,
9 there was so little diversion of Duragesic, if
10 someone had seen something that was out of
11 character, they would have brought it to the
12 district manager, who would have brought it up
13 the chain of response. There wasn't a formal
14 process. I can't recall any such situations
15 occurring in the Duragesic.

16 MR. ACKERMAN: Thank you. Let's mark this
17 next one as Exhibit 6.

18 (Janssen-Ritchie Exhibit 6 was marked for
19 identification.)

20 MR. ACKERMAN: This document is also
21 highly confidential, attorneys' eyes only.

22 MS. STRONG: Thank you.

23 So for the record, all of the testimony
24 about Exhibit 5 is going to be marked, as we
25 discussed, off the record to make sure it's

1 flagged as attorneys' eyes only.

2 And now with respect to Exhibit 6, I
3 expect we'll follow the same protocol.

4 Is that correct, Mr. Ackerman?

5 MR. ACKERMAN: Yes, although we would
6 reserve any right to challenge the designation
7 consistent with the protective order.

8 MS. STRONG: Understood.

9 BY MR. ACKERMAN:

10 Q. Mr. Ritchie, the court reporter has handed
11 you what has been marked as Deposition Exhibit
12 Number 6. It is a one-page document, Bates number
13 JAN-MS-00779044. Take a moment to review this
14 document and let me know when you've had a chance to
15 review it.

16 A. Okay.

17 Q. Okay. Have you seen this document before?

18 A. Not that I recall.

19 Q. This is an e-mail from Jenna Kelly. Are
20 you familiar with that name?

21 A. I am not.

22 Q. There is an e-mail address in the header
23 that is "mporter@kprny.com."

24 Do you see that?

25 A. Yes, I do.

1 Q. Do you know who that might be?

2 A. I do.

3 Q. Who is that?

4 A. It's Mark Porter. KPRN was our agency for
5 the brand.

6 Q. An advertising agency?

7 A. Advertising.

8 Q. This e-mail says: "Hello, everyone.
9 Today we decided to roll out the following messages
10 to the Duragesic sales forces via the cycle 1
11 workshop."

12 Do you see that?

13 A. I do.

14 Q. What is the "cycle 1 workshop"?

15 A. I think I covered this earlier. The --
16 the way that we communicated message changes to the
17 field were done through cycle meetings. And I think
18 we have a district meeting, a regional meeting, or a
19 national meeting. And I'm not sure what this meeting
20 was going to be, but there was about three meetings a
21 year that take place.

22 And so there is -- the intent of those
23 meetings is to go ahead and roll out new messaging or
24 new tactics or new education and then to certify the
25 representatives so that they are proficient with

1 their messaging before they go into -- into the
2 field.

3 Q. Okay. So the date of this e-mail is
4 December 1, 2003?

5 A. Yes.

6 Q. Does this indicate that the messages that
7 are listed in this e-mail are -- were provided to the
8 sales force on that date?

9 A. No. My interpretation of this is that
10 this is from an internal document that was going
11 through final review and getting prepared for the
12 meetings that would have taken place in either late
13 January or February, the next year, so they're
14 preparing for meetings coming up.

15 Q. Okay. Thank you.

16 The bullet points have letters in front of
17 them: L, R, and Q. Do you know what those letters
18 stand for?

19 A. I do not.

20 Q. Have you seen letters used in that manner
21 at Janssen?

22 A. I have not. I know this is a market
23 research person, so I'm only assuming that this is
24 market research jargon.

25 Q. Sure. And by this time, this point in

1 time, December 2003, were you still in the role of
2 field sales director, or had you become product
3 director for Duragesic?

4 A. I believe I was a product director.

5 Q. Okay. So as product director for
6 Duragesic, what responsibilities did you have for
7 overseeing the rollout of this message, if any?

8 A. At this time, I believe I was so new I
9 wasn't sure what I was doing with the brand, to be
10 honest. I can tell you later on, but I don't know at
11 this specific time.

12 Q. Okay. Did you oversee as product director
13 the rollout of any other product messages concerning
14 Duragesic?

15 MS. STRONG: Objection to form.

16 THE WITNESS: At some -- at some timing, I
17 was the liaison with the -- with the field. And
18 so I would have been the key contact that would
19 have taken this messaging. And I would be the
20 conduit of the messaging to the field, yes.

21 Different messages. I'm not specifically sure
22 what the messages were.

23 BY MR. ACKERMAN:

24 Q. Okay. But I think my question was a
25 little bit more specific.

1 A. Okay.

2 Q. And that is: As product director, did you
3 oversee the introduction of a new message to the
4 sales force concerning Duragesic?

5 MS. STRONG: Objection to form.

6 THE WITNESS: I thought I just answered
7 that.

8 Not at this specific time. But it's -- my
9 role at some point, I was the person that got
10 that -- was the conduit of that information to
11 the field, yes.

12 BY MR. ACKERMAN:

13 Q. Okay. And what was the sales message that
14 was introduced that you oversaw?

15 A. There were numerous ones. I don't recall
16 the specifics of those messages.

17 Q. Do you recall any of them?

18 A. I do not.

19 Q. Do you recall generally what those
20 messages might have been?

21 A. Yeah, I mentioned earlier one of them was,
22 you know, the defend campaign that we talked about.
23 That's the one that comes to mind. I don't recall
24 the other messages.

25 Q. What were the marketing messages involved

1 in the defend campaign?

2 MS. STRONG: Objection to form.

3 THE WITNESS: That was the conversation we
4 had before regarding the differences in the
5 patches, the matrix versus the reservoir.

6 MR. ACKERMAN: I see. Let's go off the
7 record for a minute.

8 VIDEOGRAPHER: Off the record 11:43 a.m.

9 (Attorneys' eyes only portion ended.)

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1 (A luncheon recess transpired
2 from 11:43 a.m. until 12:39 p.m.)

3 VIDEOGRAPHER: On the record 12:39 p.m.

4 BY MR. ACKERMAN:

5 Q. All right. We are back on the record.

6 Let's mark this as Exhibit 7, please.

7 (Janssen-Ritchie Exhibit 7 was marked for
8 identification.)

9 BY MR. ACKERMAN:

10 Q. Mr. Ritchie, I've handed you what has been
11 marked as Deposition Exhibit Number 7, which is a
12 multipage document beginning with the number
13 JAM-MS-2758275 through JAN-MS-02758287. Take a
14 moment to review the document and let me know when
15 you've had a chance to review it.

16 Mr. Ritchie, have you had a chance to
17 review the document?

18 A. I glanced through it, yes.

19 Q. Have you -- do you recognize this
20 document?

21 A. I do not.

22 Q. Okay. On the front page at the bottom, it
23 says: "Submitted to Bruce Ritchie, Brand
24 Management."

25 Is that you?

1 A. And that is me.

2 Q. Okay. Do you recall any discussions with
3 Dendrite regarding their using Dendrite segmentation
4 and analytics?

5 A. I do not. I'm not even sure if this is a
6 proposal to me that someone was canvassing business,
7 or something that we requested.

8 Q. Do you recall any discussions, internal or
9 external, regarding --

10 A. I just don't. I don't even know I was
11 copied on this message at all, yeah.

12 Q. If you turn to page -- the page that says
13 "page 4 of 13."

14 A. Yeah.

15 Q. Under "Executive Summary," it does say:
16 "Dendrite International, Inc. Dendrite is pleased to
17 provide this proposal to Janssen Pharmaceutica
18 Products."

19 Do you see that?

20 A. I do.

21 Q. Do you know whether this was a solicited
22 proposal or an unsolicited proposal?

23 MS. STRONG: Objection to form.

24 BY MR. ACKERMAN:

25 Q. Do you know whether this proposal was

1 solicited?

2 A. I do not know. This is normally -- was
3 something that would have gone through the analytics
4 department. That's why this is -- it's catching me
5 unawares. I might have been the person of the brand
6 that was paying for stuff, but I would not have
7 requested this. This information is just beyond my
8 scope of knowledge.

9 Q. So just to be clear, you have no
10 recollection of receiving this proposal?

11 A. I -- no recollection, no.

12 Q. And you don't know -- and you don't know
13 whether Janssen ever contracted with Dendrite for the
14 information described in this proposal?

15 A. I do not know that, no.

16 Q. Okay. Thank you.

17 At that point in time, did the -- did you
18 implement or did Janssen implement the Grow and
19 Defend campaign?

20 A. I don't know the exact date, but it was
21 around about the time when generics came into the
22 marketplace. So it would have been, I'm guessing,
23 2005ish.

24 Q. Okay.

25 A. Maybe early '6.

1 Q. Did there come a point in time when
2 Janssen received a -- a warning letter from the
3 government concerning Duragesic advertising?

4 A. I am aware of one warning letter. Don't
5 know the specifics, but I remember a warning letter.

6 MR. ACKERMAN: Okay. Let's mark the next
7 exhibit. This is the one e-mail and the
8 attachment. What I'd like to do is mark it as
9 one exhibit, and then we'll staple it when we
10 get a chance when we're off the record.

11 (Janssen-Ritchie Exhibit 8 was marked for
12 identification.)

13 MR. ACKERMAN: This will be Exhibit 8.

14 BY MR. ACKERMAN:

15 Q. Mr. Ritchie, the court reporter has handed
16 you Deposition Exhibit Number 8, which is an e-mail
17 and attachment with Bates number JAN-MS-00779344
18 through -9349. Take a moment to review this document
19 and let me know when you've had a chance to review
20 it.

21 A. Both documents?

22 Q. Yes, please.

23 A. Yes.

24 Q. Okay. Do you recognize this document?

25 A. Not specifically.

1 Q. Is the attachment the FDA warning letter
2 that you were aware of?

3 A. It is.

4 Q. Did you participate in any discussions
5 with anyone at Janssen concerning this FDA warning
6 letter?

7 MS. STRONG: Objection to form.

8 THE WITNESS: Pretty broad. I'm not sure
9 exactly where you're looking.

10 Please rephrase the question?

11 BY MR. ACKERMAN:

12 Q. Sure. Do you recall any discussions with
13 anyone at Janssen concerning the substance of this
14 FDA warning letter?

15 MS. STRONG: Objection to form.

16 THE WITNESS: My recollection is more
17 about when this went to the field, when the
18 letter was announced to the field. That's -- so
19 I was aware of the end product, not the
20 discussions during the process.

21 BY MR. ACKERMAN:

22 Q. Okay. So tell me -- would you explain,
23 please, how this FDA warning letter was distributed
24 to the field?

25 MS. STRONG: Objection to form.

1 BY MR. ACKERMAN:

2 Q. Let me ask a question first. Were you
3 involved in distribution of this FDA warning letter
4 to the -- the -- to the sales representatives?

5 MS. STRONG: Objection to form.

6 THE WITNESS: I'm not 100 percent sure of
7 my role. And with regard communicated. But I
8 do -- I am aware that there was an announcement
9 and information that was sent to the field
10 letting them know that this warning letter was
11 in place and they should be aware of it in case
12 there were any questions.

13 And there would have been a response that
14 they would have -- an approved response that
15 they would have given should this letter have
16 come up or be any question to them.

17 BY MR. ACKERMAN:

18 Q. And did you play any role in drafting the
19 announcement to the field?

20 A. I did not.

21 Q. Did you play any role in distributing the
22 announcement to the field?

23 MS. STRONG: Objection to form.

24 THE WITNESS: I did not.

25

1 BY MR. ACKERMAN:

2 Q. Did you play any role in drafting the
3 approved response that you just described?

4 A. I did not.

5 MS. STRONG: Objection to form.

6 THE WITNESS: Sorry.

7 MS. STRONG: Objection to form.

8 BY MR. ACKERMAN:

9 Q. Did you field any questions from regional
10 business directors or district managers concerning
11 the FDA warning letter?

12 A. It's not impossible. I don't know any
13 specifics.

14 Q. Did you have any involvement in responding
15 to the FDA warning letter?

16 MS. STRONG: Objection to form.

17 THE WITNESS: I did not. All responses
18 generally come out of the -- the -- what's his
19 job title here? Medical affairs, regulatory
20 affairs group. So it's a separate department
21 that would have handled any type of response.

22 There's a lawyer -- I know there's a
23 lawyer, a couple lawyers on this sheet, so it
24 was more internal people that would be focused
25 on that. This was not a marketing letter of

1 creation.

2 BY MR. ACKERMAN:

3 Q. Okay. Did Duragesic change its marketing
4 in response to this FDA warning letter?

5 MS. STRONG: Objection to form.

6 THE WITNESS: I believe we pulled the file
7 card that was -- the relevant piece from the --
8 from promotion.

9 BY MR. ACKERMAN:

10 Q. Okay. Did there come a time when Janssen
11 considered stopping promotion of Duragesic?

12 MS. STRONG: Objection to form.

13 THE WITNESS: Not that I'm aware.

14 BY MR. ACKERMAN:

15 Q. Does Janssen still promote Duragesic with
16 its sales representatives?

17 MS. STRONG: Objection to form.

18 MR. ACKERMAN: What's the basis of the
19 objection?

20 MS. STRONG: Lack of foundation.

21 BY MR. ACKERMAN:

22 Q. Okay. Go ahead.

23 A. Duragesic has not been promoted for the
24 last 13 years by representatives.

25 Q. So when did Janssen stop promoting

1 Duragesic via its sales representatives?

2 MS. STRONG: Objection to form.

3 THE WITNESS: I'm not sure of the exact
4 date, but it was sometime, I believe, in 2006.

5 BY MR. ACKERMAN:

6 Q. Were you involved in discussions regarding
7 the decision to stop promoting Duragesic with --
8 using Janssen sales representatives?

9 A. I would have been part of a group of
10 people, but I was not the one making the decision.

11 Q. Who were the group of people who were
12 involved?

13 A. Would have been the VPs and presidents of
14 the company.

15 Q. Can you provide names of the people who
16 were in that group of people you just described?

17 MS. STRONG: Objection to form.

18 THE WITNESS: My superior at the time was
19 David Pass, I believe was the VP, and the
20 president of the company was Jeff Smith.

21 Here again, I was not part of the final
22 decision-making, so I'm assuming that those are
23 the people that made this decision. I know it
24 didn't come from me.

25

1 BY MR. ACKERMAN:

2 Q. Okay. Did you have any discussions with
3 Kati Chupa regarding that decision, the decision to
4 stop promoting Duragesic using Janssen sales
5 representatives?

6 A. I believe Kati was no longer in the brand
7 when that decision was made. And there was a period
8 of time when I was the only person on the brand,
9 towards the end. I just don't know when that kicked
10 in, and I don't know when this decision was made.
11 But for the last -- the last period of time, it was
12 just me.

13 Q. Okay. When you say "the last period of
14 time," what period of time would that have been?

15 A. So I know it was when the brand -- there
16 was generics involved. So I couldn't give you a
17 date, but it was once generics were enrolled, and we
18 just -- we had decided to move in a different
19 direction, promote other products. We -- the
20 company.

21 Q. And when -- you say you were the "only
22 person on the brand," did your responsibilities
23 change at that point?

24 A. Yes.

25 Q. And how did they change?

1 A. They changed substantially when the sales
2 force wasn't there. There was no longer a need to
3 create messages, so there, the whole promotion
4 component was no longer a factor. My roles were
5 largely to ensure that there was sufficient product
6 created, developed, made. And then I worked a lot
7 with finance and forecasting. And then there was a
8 website that I oversaw as well.

9 Q. Look back at Exhibit 1, which is your CV,
10 and that exhibit states that you were product
11 director of analgesia from 2003 to 2005. Is that
12 correct?

13 A. Right.

14 Q. For what period of that time were you the
15 only person on the brand?

16 A. Nothing specific, but I would say the last
17 six months.

18 Q. Was the sales force, was it -- had
19 Duragesic stopped promoting -- I'm sorry.

20 Had Janssen stopped promoting Duragesic
21 using its sales force prior to you becoming the only
22 person on the brand, or during the period when you
23 were the only person on the brand?

24 A. I'm not 100 percent sure on exact timing.
25 But I do know for that last period of time, there was

1 no promotions. So it could have happened earlier in
2 2005. I just don't know the exact timing.

3 Q. And when you say "that last period of
4 time," I'm just trying to --

5 A. The last period when I was on the brand,
6 the last six months of my time.

7 Q. So for at least the last six months, there
8 was no promotion of Duragesic using sales
9 representatives?

10 A. To the best of my recollection, yes.

11 MR. ACKERMAN: Let's mark this as
12 Exhibit 9. And again, this is an e-mail and
13 attachment, and I'll -- we'll staple them when
14 we get a chance during the break.

15 (Janssen-Ritchie Exhibit 9 was marked for
16 identification.)

17 BY MR. ACKERMAN:

18 Q. Mr. Ritchie, the court reporter has handed
19 you what's marked as Deposition Exhibit Number 9.
20 This is an e-mail and attachment. The e-mail has
21 Bates number JAN-MS-00315090. The attachment has --
22 was produced natively but is at the Bates number
23 JAN-MS-00315091.

24 Take a moment to review this document and
25 let me know when you've had a chance to review it.

1 A. Yes.

2 Q. Do you recognize this document?

3 A. Not specifically.

4 Q. This is an e-mail that -- this is an
5 e-mail that you sent to Kati Chupa; is that correct?

6 A. That's correct.

7 Q. And the date is September 30, 2004?

8 A. Yes.

9 Q. The first line, you write: "I have listed
10 a number of points that I believe are important when
11 it comes to reconsidering whether or not the HSR
12 sales force should promote Duragesic in the first
13 half of 2005 or until Ionsys is launched."

14 Do you see that sentence?

15 A. Yes, I read it.

16 Q. Were you involved in discussions with Kati
17 Chupa on or about September 30th, 2004, concerning
18 whether or not Janssen sales representatives would
19 promote Duragesic in the first half of 2005?

20 A. I don't remember the specifics, but I'm
21 aware of the concept, yes.

22 Q. Okay. What conversations did you have
23 with Ms. Chupa regarding the concept?

24 MS. STRONG: Objection to form.

25 THE WITNESS: So no specifics, but I do

1 know that we were as a brand trying to decide
2 what the promotion efforts would be in 2005, and
3 we were just evaluating one of those arms, which
4 is the hospital sales force.

5 BY MR. ACKERMAN:

6 Q. I see. "HSR" is the hospital sales force?

7 A. Yes.

8 Q. Okay. There is a heading that says
9 "Rationale" and then a number of bullet points
10 underneath it. What does "DDD" stand for?

11 A. I'm not exactly sure what the "DDD" is,
12 but what it is in concept, it's the hospital sales.
13 It's the way we track hospital sales.

14 So this is not prescriptions. This is --
15 it's a number generated by what the -- what the
16 hospitals buy.

17 Q. I see. At this point in time, in
18 September of 2004, had any decision been made
19 concerning whether the -- Janssen's nonhospital sales
20 force, whether it was the green sales force or the
21 pain force or whichever force was promoting
22 Duragesic, whether that force would continue to
23 promote Duragesic in the first half of 2005?

24 MS. STRONG: Objection to form.

25 THE WITNESS: I really don't recall. But

1 to my best recollection, we did -- our sales
2 force, one of them was selling it in 2005 for
3 the first part. My best recollection, yeah.

4 BY MR. ACKERMAN:

5 Q. Did discussions occur at the same time
6 concerning the hospital sales force's continued
7 selling of Duragesic in 2005 and the regular sales
8 force's continued selling of Duragesic in 2005?

9 MS. STRONG: Objection to form.

10 THE WITNESS: I remember conversations
11 taking place about promotion in general. To my
12 best recollection, a decision was made for a
13 office-based campaign for Duragesic, and I
14 believe that there was planned for the hospital
15 sales force to no longer sell. So this response
16 was for -- to try and see if we could maybe
17 change that decision, to my best recollection.

18 BY MR. ACKERMAN:

19 Q. When you say "an office-based campaign,"
20 what do you mean by that?

21 A. Just calling on the pain specialists. So
22 everything outside the hospitals, promotion outside
23 the hospitals.

24 Q. I see. I take it it's -- it appears from
25 this e-mail that you were in favor of the hospital

1 sales force continuing to promote Duragesic; is that
2 correct?

3 A. That is correct. I was the hospital sales
4 director, so I had a big affinity for this team.

5 Q. And were there individuals who were -- who
6 held the opposite view?

7 A. I don't recall -- sorry.

8 MS. STRONG: Objection to form.

9 BY MR. ACKERMAN:

10 Q. Were there individuals at Janssen who were
11 not in favor of the hospital sales force promoting
12 Duragesic during the first half of 2005?

13 A. As I mentioned before, my recollection was
14 that someone was -- had made a proposition for them
15 to no longer to promote. So I don't know who that
16 was. But it did -- does seem, to my recollection, be
17 that someone thought it would be a good idea not to
18 promote in 2005.

19 Q. And was Ms. Chupa involved in this
20 decision to -- of whether or not the hospital sales
21 force would continue to promote Duragesic?

22 A. Yes, she was.

23 Q. Was she the decision-maker?

24 MS. STRONG: Objection to form.

25 THE WITNESS: She would have needed to be

1 the major sponsor to take this to higher levels
2 in the company.

3 BY MR. ACKERMAN:

4 Q. I see. Did you -- do you recall any
5 discussions with Ms. Chupa regarding the arguments
6 laid forth -- set forth in this e-mail?

7 A. As mentioned before, I -- I don't recall
8 specifics of a conversation, but there would have
9 been a conversation following this e-mail. This
10 e-mail would have not just stood by itself.

11 Q. Ultimately, what did Ms. Chupa decide?

12 A. I was smiling before because I don't know
13 the answer to that question, so, yeah.

14 Q. Did the hospital sales force promote
15 Duragesic in the first half of 2005?

16 A. I do not know.

17 Q. If you look at Exhibit 8, the date on
18 Exhibit 8 is September 3rd, 2004; is that correct?

19 A. Yes.

20 Q. And the date on Exhibit 9 is
21 September 30th, 2014; is that correct?

22 A. Yes.

23 Q. So is it correct to say that discussions
24 regarding whether or not the hospital sales force
25 would continue to promote Duragesic occurred within a

1 month of Duragesic receiving the FDA warning letter?

2 MS. STRONG: Objection to form.

3 THE WITNESS: I agree with you on the

4 dates, but I don't see any relationship between

5 the two, and I'm not aware of any relationship

6 between the two.

7 BY MR. ACKERMAN:

8 Q. Actually, hold on before we move from that
9 document. If you look at the last several of the
10 bullet points.

11 A. I'm sorry. I'm not sure which document.

12 Q. Under -- I'm sorry. On Exhibit 9. You
13 write: "The institutional-based KOLs are important
14 components of Duragesic Grow and Defend campaign."

15 Do you see that?

16 A. I see that. I read that.

17 Q. Okay. So what -- what does that sentence
18 mean?

19 A. I'm not exactly sure what my intent was.
20 I can speculate potentially, but I'm not exactly sure
21 what I meant.

22 Q. Who were the "institutional-based KOLs"?

23 A. I don't believe it was a specific group of
24 people. It was just the thought leaders that were in
25 the institutions. "KOL" is a pretty broad, so --

1 yes.

2 Q. Okay. The next bullet point says: "The
3 institutional-based KOLs will be vital to the success
4 of AP77."

5 You see that?

6 A. I see that.

7 Q. What is "AP77"?

8 A. You know, we saw this acronym. I wasn't
9 sure what it is then. I don't know if it's not
10 referring to Ionsys, but that would be a pure guess.

11 Q. There is a reference to Ionsys in the
12 first paragraph of this e-mail. What is Ionsys?

13 A. Ionsys is a -- was going to be a pain
14 patch that you could push a button on to get a bolus
15 of drug. It never came to market, that I'm aware.

16 Q. Did you have any involvement in the
17 establishment of a risk management program for
18 Duragesic?

19 MS. STRONG: Objection to form.

20 THE WITNESS: I did have no involvement.

21 BY MR. ACKERMAN:

22 Q. Are you aware of a risk management program
23 for Duragesic that was implemented?

24 MS. STRONG: Objection to form.

25 THE WITNESS: I was in meetings, and I

1 knew that one was discussed, but I had no -- I
2 was not part of any of its creation.

3 BY MR. ACKERMAN:

4 Q. Who were the meetings with that you were
5 in?

6 A. It was -- there was general team meetings,
7 and different people would give updates on projects.
8 And I remember this being a project, but I don't know
9 who owned it or who was dealing with it.

10 Q. Did anyone ever mention the reasons that a
11 risk management program was being discussed in these
12 meetings?

13 A. Not that I'm aware.

14 Q. Did there come a time when the Duragesic
15 patch switched from a reservoir patch to a matrix
16 patch?

17 A. Not while I was in the brand.

18 MR. ACKERMAN: Let's mark the next
19 document.

20 (Janssen-Ritchie Exhibit 10 was marked for
21 identification.)

22 BY MR. ACKERMAN:

23 Q. Mr. Ritchie, the court reporter has handed
24 you what has been marked as Deposition Exhibit Number
25 10. I can see that you are chuckling, so maybe you

1 remember this one. It is a multipage document
2 numbered JAN-MS-03076731 through -03076761. Take a
3 moment to review this document and let me know when
4 you've had a chance to review it.

5 Have you had a chance to review it?

6 A. I have.

7 Q. Do you recognize this document?

8 A. No. I was laughing because I didn't
9 recognize the document at all. You found documents
10 I've never seen, so I don't recall.

11 Q. I see. If you look at the title page of
12 this document, it says "Duragesic Marketing
13 Strategy." It's addressed to you, correct?

14 A. (Nodding head up and down.)

15 Q. From Ryan Hagey, Ryan Martins, Padraig
16 O'Mathuna, Smital Shah, Jennifer Wong, and Beidi
17 Zheng, who are identified as the marketing project
18 team at the University of California at Berkeley,
19 Walter A. Haas School of Business.

20 A. Do we have a date on this document?

21 Q. Let me ask my question first, and then
22 we'll get to it.

23 Do you recall any interaction with anyone
24 at the University of -- the University of California
25 at Berkeley School of Business concerning the

1 Duragesic marketing strategy?

2 A. No.

3 Q. Do you recall receiving this document?

4 A. I have no recollection of receiving this
5 document.

6 Q. Do you have -- you have asked for a date,
7 and this is the manner in which it was produced to
8 us. It says -- unfortunately, it says "auto date" at
9 the top. So it's not clear to us the date on which
10 this document was produced.

11 But there are some -- some hints. If
12 you'd turn to page 3 of the memorandum, what I will
13 call a "memorandum."

14 At the bottom, it says: "The product" --
15 referring to Duragesic -- "was J&J's fourth largest
16 pharmaceutical brand."

17 And then continuing on: "The Duragesic
18 patent expired in 2005, and generics entered the
19 market."

20 There is a reference to the "first
21 nonauthorized competitor patch. Mylan
22 Pharmaceuticals entered the market in February 2005."
23 And then, it says: "Within three months, Duragesic
24 lost 70 percent of its market share to the two
25 generics but has since held steady at 30 percent."

1 Do you see that reference?

2 A. I do.

3 Q. So does that suggest to you when this
4 document was generated?

5 A. Not specifically, but it gives me a hint
6 that I was the only person on the team. So this is
7 towards the end of my stint in the brand.

8 Q. Okay.

9 A. What I -- there were a number of occasions
10 when companies would send us proposals, almost on
11 fishing expeditions, to get business. I have no
12 recollection of ever requesting this work.

13 Q. I see. Do you think this was a -- do you
14 think this was a proposal?

15 A. In my mind, that's all it can be.

16 Q. You don't recall any discussions with the
17 authors of this paper?

18 A. Not at all.

19 Q. You recall -- you don't recall receiving
20 this paper at all?

21 A. I do not. In all honesty, something like
22 this should have gone to another department. It
23 would have needed to have gone to a medical side.
24 Someone else would have had to be involved to
25 validate who this company was. This is -- this is

1 not normally the scope of marketing, to be -- to work
2 with a group on something like this.

3 Q. Well, the paper says "marketing strategy,"
4 right?

5 A. I understand. But as I've glanced at the
6 contents here, there would be components of this that
7 other departments would have needed to align with.

8 Q. Well, which departments were responsible
9 for setting the marketing strategy for Duragesic?

10 MS. STRONG: Objection to form.

11 THE WITNESS: The marketing department,
12 which is what I was a part of. But people call
13 "marketing" -- "marketing" can have different
14 definitions. And as I look through this, in
15 some of these components, I do not believe what
16 we were doing was marketing.

17 BY MR. ACKERMAN:

18 Q. So what components in here did you not
19 believe were marketing?

20 A. So if I look at page 15, there is a
21 component here to MSLs, which is the medical group,
22 "Encourage collaboration with medical science." Our
23 marketing was strictly to our sales force. We didn't
24 have a sales force, I believe, at this time, or we
25 were getting to a point where we weren't going to

1 have a sales force. So there would have been nothing
2 in this that I would have requested because we would
3 have had no way to get this information out to
4 people.

5 Q. Okay. Is it possible that someone else
6 solicited or someone else was responsible for --
7 strike that.

8 Let's move on to the next exhibit.

9 (Janssen-Ritchie Exhibit 11 was marked for
10 identification.)

11 MR. ACKERMAN: This will be Exhibit 11.

12 BY MR. ACKERMAN:

13 Q. Mr. Ritchie, I've handed you what has been
14 marked as Exhibit 11. Take a moment to review this
15 document, and let me know when you've had a chance to
16 review it.

17 A. Okay.

18 Q. This is -- well, first of all, this is a
19 two-page document, Bates number JAN-MS-01136186
20 through -6187.

21 This is an e-mail that you sent; is that
22 correct?

23 A. I believe so, yes.

24 Q. And the bottom e-mail appears to be an
25 e-mail that was sent to a distribution list; is that

1 right?

2 A. Appears so.

3 Q. And by this time, you were no longer
4 product director of Duragesic?

5 A. Correct.

6 Q. The e-mail at the bottom references an
7 "unbranded speaker bureau for pain."

8 Did you have any involvement in
9 establishing or working with an unbranded speaker
10 bureau of pain -- or for pain?

11 A. Did I have -- no.

12 Q. No? Were you -- your e-mail at the top
13 says: "I like this concept."

14 What did you like about the unbranded
15 speaker bureau for pain concept?

16 A. I'm not so sure it wasn't just a nicety in
17 language. But, you know, any time we could interact
18 with our customers and help educate people, that was
19 a good -- that's a good thing.

20 Q. Okay. Did Duragesic utilize an unbranded
21 speaker bureau?

22 MS. STRONG: Objection to form.

23 THE WITNESS: I don't recall specifically.

24 BY MR. ACKERMAN:

25 Q. Apologies if we went over this, but as

1 product director, did you have any involvement in
2 the -- a speaker bureau for Duragesic if one existed?

3 A. I don't recall that I ever was a lead
4 person for speaker bureaus.

5 Q. Okay. But did you have -- other than as a
6 lead person, did you have any involvement?

7 A. I was aware of speaker programs. I would
8 have attended the trainings, potentially, but I
9 didn't select the training, the speakers.

10 Q. So there came a point in time when you
11 were no longer the product director for Duragesic and
12 became the -- I forget -- was it regional --

13 A. Regional business.

14 Q. Regional business director?

15 A. Yes.

16 Q. How did you learn of that change?

17 A. Which change?

18 Q. The change from product director to
19 regional business director?

20 A. It was my choice.

21 Q. Okay. Please explain.

22 MS. STRONG: Objection to form.

23 THE WITNESS: Duragesic had got to a point
24 where we -- my -- my activities were fairly
25 mundane. The part I liked about the job was,

1 you know, the working, was the promotion that
2 was no longer in place, and so I wanted a
3 different job opportunity. And so I went back
4 to a job that I liked, which was in the field
5 management.

6 BY MR. ACKERMAN:

7 Q. At that point, had Nucynta launched?

8 A. I do not believe so.

9 Q. When you left the position of product
10 director at Duragesic, did someone else assume your
11 responsibilities?

12 MS. STRONG: Objection to form.

13 THE WITNESS: I believe the -- the
14 position rolled into a job title of managing of
15 nonpromoted brands, and I don't know who the
16 person was. I can't recall the person's name.
17 I know who it was. I can't recall the name.
18 But it was no longer a -- just an individual
19 job.

20 BY MR. ACKERMAN:

21 Q. Let's go back to Exhibit 10. Would you
22 turn to page 6? And there is a heading there that
23 says "Target Customers."

24 Do you see that?

25 A. I read that, yes.

1 Q. And the second paragraph says: "The
2 target customer for Duragesic cares for" -- I'm sorry
3 -- "The target physician customer for Duragesic cares
4 for patients with long-term, debilitating pain.
5 These physicians are typically oncologists, pain
6 specialists who specialize in chronic pain
7 treatments, and rural primary care physicians."

8 Do you see that sentence?

9 A. I read the sentence.

10 Q. Is that an accurate statement as to what
11 the target physician customer for Duragesic was?

12 A. It's not a definition we would have used.
13 This is not our language.

14 Q. Do you know what -- I understand it's not
15 your language, but is it -- is it an accurate
16 description?

17 A. There are --

18 MS. STRONG: Objection to form.

19 THE WITNESS: There are certain words I
20 agree with, but other words don't fit into any
21 definition we would have used.

22 BY MR. ACKERMAN:

23 Q. Okay. So which ones, which parts of this
24 do you agree with?

25 A. Patients with long-term pain --

1 "debilitating pain" is not a word we've ever used.

2 Q. I understand.

3 A. Okay.

4 Q. How about in the second sentence, that the
5 target --

6 A. These physicians are --

7 Q. -- are typically oncologists; is that
8 correct?

9 A. Yes. I'm sorry.

10 MS. STRONG: I didn't hear a question.

11 MR. ACKERMAN: I said, "Is that correct?"

12 MS. STRONG: But what correct?

13 BY MR. ACKERMAN:

14 Q. Is it an accurate statement that target
15 physicians for Duragesic are typically oncologists,
16 pain specialists who specialize in chronic pain
17 treatments, and rural primary care physicians?

18 A. So I would align with the oncology and
19 pain specialists. The definition around "rural
20 primary care physicians" is way too vague for me to
21 give you an answer.

22 Q. Thank you.

23 But Duragesic was marketed to primary care
24 physicians, correct?

25 A. With certain requirements, yes.

1 Q. And what were those requirements?

2 A. That they need to be -- need to be
3 actively working with and have a significant
4 knowledge of opioids.

5 Q. I'm sorry. A significant -- oh,
6 knowledge.

7 A. Knowledge, of opioids, yes.

8 Q. And how would you determine whether a
9 primary care physician had a significant knowledge of
10 opioids?

11 MS. STRONG: Objection to form.

12 THE WITNESS: So first of all, it wouldn't
13 have been me who was determining that.

14 BY MR. ACKERMAN:

15 Q. I understand.

16 How would Janssen determine that?

17 MS. STRONG: Objection to form.

18 THE WITNESS: Janssen, the analytics
19 department would continually run lists of
20 customers that had -- that met certain opioid
21 thresholds based upon the drugs that someone
22 would have identified, a basket of drugs, all
23 opioids, yeah.

24 BY MR. ACKERMAN:

25 Q. You mean met certain prescribing

1 thresholds? Is that what you mean?

2 A. And also volumes, yes.

3 Q. Turn to page 4.

4 A. Same document?

5 Q. Yes, same document.

6 How much experience do you personally have
7 in the pharmaceutical industry?

8 A. Looking for time?

9 Q. Yes.

10 A. About 32 years.

11 Q. Okay. There is a paragraph here about a
12 third of the way down the page that begins: "The
13 pharma industry's profits are traditionally driven by
14 patented products that create high barriers to entry,
15 high R&D costs, risks associated with winning FDA
16 approval, and high investment in manufacturing
17 capabilities."

18 Do you believe that's an accurate
19 statement?

20 MS. STRONG: Objection to form.

21 THE WITNESS: It's the first time I'm
22 reading it and seeing it. Let me read it again.

23 That is not a definition that I agree
24 with.

25

1 BY MR. ACKERMAN:

2 Q. And why do you disagree with it?

3 A. Because there is a lot more that goes into
4 deciding why we promote drugs. There's no component
5 of patient benefit in this statement.

6 Q. Okay. Turn to page 3, if you would.

7 And that paragraph begins:

8 "Traditionally" -- I'm sorry. That page, the first
9 paragraph on the page begins: "Traditionally,
10 patients debilitated by chronic pain have had few
11 options for help. Until recently, pain was deemed
12 merely a symptom of an underlying disease. This view
13 changed with the training of dedicated pain
14 specialists and the introduction of new
15 pharmaceutical products addressing the full spectrum
16 of pain."

17 Do you see this sentence?

18 A. I read the sentence, yes.

19 Q. Do you agree with -- are those sentences
20 accurate, to the best of your knowledge?

21 MS. STRONG: Objection to form.

22 THE WITNESS: Once again, this is not a
23 document that we generated. So you'd be asking
24 me for my own opinion on this. This is not a
25 company opinion. This is not a company

1 document.

2 BY MR. ACKERMAN:

3 Q. I understand that. But you were --
4 you have 30 years of experience in the pharmaceutical
5 industry, correct?

6 A. Yes.

7 Q. And you were a regional business director?
8 Correct?

9 A. Yes.

10 Q. And a field sales director?

11 A. Yes.

12 Q. And how much of the 30 years' experience
13 in the pharmaceutical industry is spent -- do you
14 have overseeing sales representatives?

15 MS. STRONG: Objection to form.

16 THE WITNESS: 20-plus years.

17 BY MR. ACKERMAN:

18 Q. So in your experience, is this statement
19 accurate, these sentences at the beginning of this
20 first paragraph on page 3 of this document?

21 MS. STRONG: Objection to form.

22 THE WITNESS: First of all, my 32 years,
23 only about 8, 9 of those were dedicated to
24 analgesia, so I need to clarify that.

25

1 BY MR. ACKERMAN:

2 Q. Okay.

3 A. In my personal opinion, I do believe there
4 was a period of time when pain was undertreated.

5 Q. Okay. Thank you. Let's mark another
6 document.

7 MS. STRONG: We've just gone an hour. Do
8 you want to take a break?

9 THE WITNESS: Can we turn the temperature
10 down in here as well? It's getting a little
11 warmer in here.

12 MR. ACKERMAN: Let's go off the record.

13 VIDEOGRAPHER: Off the record 1:34 p.m.

14 (A recess transpired from 1:34 p.m. until
15 1:47 p.m.)

16 VIDEOGRAPHER: On the record 1:47 p.m.

17 BY MR. ACKERMAN:

18 Q. Mr. Ritchie, let's go ahead and mark
19 another document. This is Number 12.

20 (Janssen-Ritchie Exhibit 12 was marked for
21 identification.)

22 BY MR. ACKERMAN:

23 Q. Deposition Exhibit 12 is an e-mail number
24 JAN-MS-00725328 through -00725330. Take a moment to
25 review this document and let me know when you have

1 had a chance to review it.

2 A. Okay.

3 Q. Okay. Do you recognize this e-mail?

4 A. I do not.

5 Q. This is an e-mail from William Parks to
6 you and some other people; is that correct?

7 A. Yes, correct.

8 Q. And who was William Parks?

9 A. He was the director of trade relations.

10 Q. And what is the director of trade
11 relations' responsibilities?

12 A. I'm not 100 percent sure, but I believe to
13 a high degree, they -- he would work with the
14 different pharmacies and distribution centers to
15 ensure that there was sufficient drugs available, not
16 just for Duragesic, but for all analgesia drugs.

17 Q. Okay. So he was not a member of the
18 Duragesic brand team?

19 A. No.

20 Q. At this point, August 2003, were you a
21 member of the Duragesic brand team?

22 A. I'm not 100 percent sure, but I believe
23 so.

24 Q. And the other recipients of this e-mail,
25 were they all members of the Duragesic brand team?

1 MS. STRONG: Objection to form.

2 THE WITNESS: I believe all were except

3 Dominic LaSelva and maybe Barry Pritchard. They

4 were -- I believe they were salespeople. Barry

5 could have been part of the brand. I'm not

6 sure. He had different jobs. I'm not sure when

7 he took the job.

8 BY MR. ACKERMAN:

9 Q. Did the Duragesic brand team monitor the

10 activities of Purdue Pharma's sales force?

11 MS. STRONG: Objection to form.

12 THE WITNESS: Not that I'm aware.

13 BY MR. ACKERMAN:

14 Q. Okay. Was there any -- not at all?

15 MS. STRONG: Objection to form.

16 THE WITNESS: I say, not that I'm aware.

17 BY MR. ACKERMAN:

18 Q. Okay. Did the Duragesic brand team track

19 the activity of Purdue's sales force?

20 MS. STRONG: Objection to form.

21 THE WITNESS: Be more specific in

22 "activity," please.

23 BY MR. ACKERMAN:

24 Q. Did the Duragesic brand team maintain

25 statistics or information regarding the size of

1 Purdue's sales force or the number of visits?

2 MS. STRONG: Objection to form.

3 THE WITNESS: I know from an earlier
4 document today, we talked about share of voice?
5 So, for example, we knew what the share of
6 voice, we knew the size of their sales force,
7 and we definitely knew the total market.

8 But there again, it wasn't the brand team
9 that did that. There would be analytics
10 department, other departments would be doing
11 that, seeking that data.

12 BY MR. ACKERMAN:

13 Q. And I think we said before, but do you
14 know what data formed the basis for that share of
15 voice analysis?

16 A. Yes. The share of voice is the number of
17 physician detail equivalents. So every -- every
18 sales force has sales -- most of the time, we sell
19 more than one drug. So you saw before that we had
20 Duragesic, Aciphex, and I can't remember the other
21 one.

22 And every one of those is then -- has a --
23 like, the first program might be twelve calls, the
24 twelve and the six and the three, and then you add
25 that up so you know how many times a physician is

1 detailing to -- a physician is being detailed for
2 each drug.

3 So while our sales force -- I might have
4 mentioned before, we had 700 sales reps. Not all of
5 those would be selling Duragesic in the first
6 position. Some might be selling it in the third
7 position. So they would only be maybe talking about
8 it once a quarter or something. If it was a primary
9 detail, they would be selling it more frequently. So
10 we were aware of that piece.

11 Q. There is a reference in this -- so this
12 article concerns the -- the article -- back to
13 Exhibit 12.

14 A. Yes.

15 Q. Mr. Parks forwards an article concerning
16 Oxycontin sales rep -- representatives; is that
17 right?

18 A. That's what it appears to be.

19 Q. Do you recall any discussion at Janssen
20 following or concerning this article?

21 A. I do not.

22 Q. Do you -- there is a reference here to --
23 in the first line of the article, it says:
24 "Colleagues were giving him grief over the amount of
25 the potent pain killer he was prescribing, he told

1 Oxycontin salesman Shane Foster over lunch in early
2 February."

3 Do you see that sentence?

4 A. I read the sentence, yes.

5 Q. Yes. Are you aware of any prescribers
6 complaining to Duragesic sales reps that they were
7 getting grief over the amount of Duragesic they were
8 prescribing?

9 A. I do not.

10 MR. ACKERMAN: All right. We can put that
11 document aside.

12 Let's mark this as Number 13.

13 (Janssen-Ritchie Exhibit 13 was marked for
14 identification.)

15 MR. ACKERMAN: For the record, Exhibit
16 Number 13 is an e-mail, Bates number
17 JAN-MS-02108736 through -02108738.

18 BY MR. ACKERMAN:

19 Q. Have you had a chance to review this
20 document?

21 A. I glanced through it, yes.

22 Q. Do you recognize this document?

23 A. Not specifically.

24 Q. The bottom of page 1 is an e-mail that
25 Mr. Vorsanger sends to you; is that correct?

1 A. Yes.

2 Q. And it's -- the subject is "Forward:

3 Abuse data."

4 And Mr. Vorsanger writes, "For the third

5 Bruce." Does that mean you?

6 A. I believe so.

7 Q. And it says --

8 A. Yeah, Bruce Williamson, Bruce Moskovitz,

9 and Bruce Ritchie.

10 Q. I see. And would you please read into the
11 record your response to that e-mail?

12 A. As regards what?

13 Q. So Mr. Vorsanger sends you an e-mail at
14 the bottom of this document, correct? And then you
15 sent a response to Mr. Vorsanger at -- on Friday,
16 January 27, 2006, at 12:59 p.m., correct?

17 A. Correct.

18 Q. Would you please read the substance of
19 that response into the record?

20 A. "Very interesting. Anyone for tea?"

21 Q. Thank you very much.

22 I have nothing further.

23 MR. ACKERMAN: I want to make one note,

24 which is that there was some personnel files for

25 Mr. Ritchie produced yesterday and then early

1 this morning. We have not yet had a chance to
2 review them. I don't know whether we would want
3 to recall Mr. Ritchie based on those
4 productions, but Plaintiffs reserve our rights
5 in that respect.

6 MS. STRONG: We understand your position
7 on that.

8 MR. ACKERMAN: Should we go off the record?

9 MS. STRONG: Yes.

10 VIDEOGRAPHER: Off the record. 2:01 p.m.

11 (A recess transpired from 2:01 p.m. until
12 2:27 p.m.)

13 VIDEOGRAPHER: On the record 2:27 p.m.

14 EXAMINATION

15 BY MS. STRONG:

16 Q. Good afternoon, Mr. Ritchie.

17 A. Afternoon.

18 Q. You've worked for Janssen for
19 approximately 31 years; is that right?

20 A. That's correct.

21 Q. How many medications have you worked on
22 over that period of time?

23 A. I don't have a specific answer, but
24 approximately about 40 drugs, medications.

25 Q. And when was the last time you worked with

1 Duragesic?

2 A. I believe it was 2006.

3 Q. Approximately 13 years ago?

4 A. That's correct.

5 Q. And as we saw, your résumé indicated that
6 you became a national sales director for pain
7 medications in 2003; is that correct?

8 A. Correct.

9 Q. Before you became a national sales
10 director in 2003, did you have involvement at the
11 company with the training of sales representatives?

12 A. I did.

13 Q. And can you briefly describe how you were
14 involved with the training of sales representatives
15 at the company in your prior positions?

16 A. Sure. So I was involved in training in
17 every position that I -- that I was involved in.

18 Started out as a representative of the
19 company, and so I went through the full initial
20 training with McNeil Consumer Products at the time,
21 and I had to pass the assessments and pass the -- all
22 of the necessary testing to become proficient at
23 selling the drug. So as a representative, I was part
24 of the process.

25 My second job was actually as a sales

1 trainer where I actually was responsible for the
2 teaching of representatives on the various drugs I
3 did. So I became fairly proficient with the process.

4 And as I moved through my career, that
5 baseline that I achieved that I was able to build as
6 a trainer helped me when -- with my future jobs. So
7 knowing exactly what the process was and what we
8 needed to do to be proficient and ensuring our
9 representatives were actually able to go ahead and
10 interact with the customers at the right level and
11 compliantly.

12 I was a district manager, and I had new
13 drugs, and I went through the same training program
14 as a district manager. And then I became a regional
15 business director, and I had new drugs, and I went
16 through the same process again.

17 So every -- every job I had, even
18 including the national sales director job, I had to
19 go through the process of ensuring that I was as
20 proficient as the representatives, not only in the
21 knowledge, but also the verbalization of the drugs.

22 Q. Now, focusing on Duragesic specifically,
23 what was your role as to the training of Duragesic
24 sales representatives?

25 A. So I had two different jobs. As the

1 national sales director, while the sales training
2 department didn't report directly to me, I did have a
3 very strong involvement with the training department
4 to ensure that the training met the highest levels;
5 met the needs of the field.

6 We have always had a very strong focus on
7 ensuring that -- it's even more so with Duragesic --
8 ensuring that there was a strong safety message.

9 When we have a black box on our drugs, we
10 do spend a lot more time making sure people
11 understand the black box because it is the -- it is a
12 requirement by the representatives to go ahead and
13 convey the black box warning to their physicians in
14 every interaction.

15 So I was working with the sales training
16 department. I would go and spend time in the class
17 when the class would be there, just to make sure that
18 the different students were doing what they needed to
19 do and that the trainers were doing what they were
20 supposed to be doing as well.

21 The other part that I got involved in is
22 that we have certifications and testing that takes
23 place. When -- you know, throughout the home study
24 process. And I talked about the home study processes
25 earlier. And then when they come into the actual

1 live, face-to-face training, they need to pass the
2 different assessments, and you need to get a
3 90 percent as a passing grade.

4 The representatives have -- it's varied
5 over time, but for the majority of my tenure, the
6 representatives have two tries. If they don't get
7 90 percent on their first try, they have a second
8 chance to get it done. And if they fail the second
9 time, I would not offer to get involved at that point
10 because they would now be on a warning. There would
11 be -- there is language in our hiring process that
12 they need to be able to -- be able to sell our drugs
13 appropriately, and so I would get involved.

14 A lot of times, these people would get one
15 more chance. And if they did not pass in that last
16 time, we have had people be terminated at that point.
17 So it's very, very necessary to go ahead and get
18 90 percent.

19 Q. Okay. And let's back up a little bit. If
20 you could briefly describe what is the training for a
21 Duragesic sales rep when they first come onto the
22 brand and the product.

23 A. Sure. So it's a fairly lengthy training,
24 so I'll give you some approximate time. So there is
25 a home study. And the home study is, you know,

1 roughly four to six weeks, depending where the person
2 comes on board.

3 That -- generally, there is a bunch of
4 modules and new modules that they cover: Physiology,
5 anatomy, depending on the categories. We talk about
6 Duragesic specifically.

7 There was a lot of focus on, you know,
8 understanding pain. You know, how is pain generated
9 in the body? And then, more specifically, what --
10 what's fentanyl? What's the patch? How do you --
11 how does the patch work? What happens if there is
12 challenges with the patch?

13 Then also the competition. We knew what
14 the other drugs were in the marketplace. That was
15 part of our modules.

16 And also just what pain was in general;
17 what you could expect from the different prescribers
18 that were prescribing pain. So why would an
19 oncologist focus on pain would be a module, why would
20 a pain specialist be focusing. So the different
21 people would be -- the different physician types were
22 covered in that as well.

23 Q. Okay. So after the home study, what would
24 be next for the training of the sales
25 representatives?

1 A. So after home study -- and here again, the
2 whole time, you would have had to pass the
3 assessments to get into -- once you completed all the
4 assessments, you would then go to live training.

5 Live training, it's varied over time, but
6 back then, I believe it was three weeks of training
7 in-house. And this was a class of people,
8 approximately 20 different people. And I mentioned
9 before they were sales trainers that are proficient.

10 You would bring into those classes -- you
11 would have -- physicians would come in and talk about
12 what they did, not specific to what they prescribed,
13 but, you know, what their role was, when they saw a
14 patient, what they were thinking, just to try to give
15 the reps a better understanding of what was -- what
16 was going on. So you have this live training.

17 There would be an assessment on knowledge
18 once again.

19 And then the last part of this was the
20 verbalization of the message, you know. So having
21 all this book knowledge is one thing, but being able
22 to translate it into the -- into language that made
23 sense for the customer was -- is one piece, but also
24 there was marketing messages that they needed to know
25 and be proficient at.

1 And as I mentioned before, they needed to
2 know how to do -- particularly sell the sale -- the
3 safety page and the black box with Duragesic.

4 And they would be certified -- there was a
5 hierarchy of points that they needed to make sure
6 they were verbalizing. And here again, if they
7 didn't verbalize it appropriately, they would fail.
8 You had two chances to get it passed, and if they
9 really struggled to get the messaging done, you
10 potentially could get terminated on that piece.

11 They would then go back into the field.
12 But they were -- they were -- they had -- essentially
13 had safety rules. You'd either -- they had a trainer
14 that was assigned to them, and they had their
15 district manager.

16 So their first week or two coming out of
17 training, they would be working with the trainer in
18 their -- another person's territory, and they would
19 be hearing what this rep was doing on a day-in and
20 day basis. So they were getting it modeled to them.

21 Q. So I want to be clear on where we are.
22 This is after the in-person training. You're now
23 talking about the sales representatives going out in
24 the field, supervised; is that correct?

25 A. That's correct. First, they're going out

1 into the other -- not with their own customers.

2 They're going to someone else's customers.

3 Q. Okay. And so you can continue. What
4 happens when they do that?

5 A. So, then, once they have gone through that
6 and they have a better understanding or they've seen
7 this in action, they've seen it modeled, they then go
8 into their own territory for the first time, once
9 again, either with a district manager or trainer.

10 So there is somebody there that is
11 watching to make sure that their language is correct,
12 that they are selling both efficacy and safety, that
13 they are communicating the black box appropriately.

14 And that goes on until the person is
15 proficient. And then there's a feeling that they can
16 go out by themselves.

17 A lot of times, the second training class
18 comes at a period of time where they really wouldn't
19 have been by themselves. See, there's a second
20 training where you take everything to a different
21 level. And -- but sometimes, depending on the number
22 of people, that might -- there might be a gap between
23 the two so the person would be -- by themselves.
24 They then go back in for full territory.

25 Once again, they get more prior knowledge

1 assessment. They get more testing on verbalization.
2 They just get higher levels of information so that
3 they could become even more proficient.

4 Q. Okay. And is there more to that initial
5 training, or does that take them to the end of their
6 initial training on Duragesic?

7 A. So that is the end of the -- that's the
8 end of the formal training, but training never really
9 stops. You know, there is numerous ways that
10 additional training takes place so --

11 Q. Before you talk about additional training,
12 how long, then, is that first period that you just
13 described, from starting with the at-home study and
14 continuing to the field training that you just
15 described?

16 A. It ranges from four to six months.

17 Q. Okay. And now you just referenced that
18 there is additional training that sales
19 representatives have after that initial training.
20 Can you briefly describe for us what is it that's
21 involved in the additional training of Duragesic
22 sales representatives?

23 A. Yes. So there's a number of things. The
24 first one is the -- the cycle meetings. I know we
25 talked about cycle meetings before. So cycle

1 meetings are local meetings. They're done either at
2 a district, regional, national level. They happen
3 approximately three times a year, every four months
4 or so on average.

5 There's -- the purpose of those meetings
6 is to make sure that any new messaging is updated so
7 that people get the new verbalization with the new
8 brand strategy, and they need to go ahead and certify
9 on that.

10 But there is other trainings that come
11 into play. You know, if there's -- if there's a new
12 drug that's come on the market or there's a new study
13 that's come out, the representatives are updated or
14 brought up to speed on that information. And
15 sometimes, you might even have some sales techniques
16 and things that they would be covering in those
17 meetings, so the training is ongoing.

18 And, as I say, the representative gets
19 certified before they leave those -- the training.
20 So that's the cycle meeting.

21 The other form of training --

22 Q. And one question as to the cycle meetings.
23 Who is involved in the cycle meetings?

24 A. So the meeting, depending on the scope, if
25 it's a district meeting, the district manager would

1 normally host that meeting. There's often a regional
2 trainer that would be there as well.

3 So we have a hierarchy of meetings. So
4 you have a -- you have a meeting with the RBDs to
5 start with at a high level. So they go ahead and get
6 this information.

7 Q. And the "RBDs" are who?

8 A. Regional business directors.

9 You then would have a meeting with the
10 regional business directors and the district
11 managers. And so they get this content and
12 information at a higher level. And so that they are
13 proficient. So when they actually get to have their
14 team -- their local teams, they've already seen this
15 information, they have done their own certifications.
16 And so this information is well known to them.

17 They are then given decks to go ahead and
18 present. And if it's a district meeting, they would
19 then present to their team this information, all
20 scripted, all gone through compliance. And they're
21 going to be following these decks for -- you know,
22 from start to finish.

23 Q. And when you say the regional business
24 directors meet with their team, you were talking
25 about the team of sales representatives?

1 A. Well, the regional business -- sorry. The
2 regional business directors meet with the district
3 managers. And then the district managers usually
4 host the meetings with their representatives. So,
5 yeah.

6 Q. So in addition to cycle meetings, what are
7 some other types of training that would continue for
8 sales representatives after that initial four to six
9 months of training you described?

10 A. Yeah. So the biggest training actually
11 takes place in the field with the district manager.
12 The district manager spends approximately two days
13 every six weeks with each of the representatives.

14 And that -- those field sessions are
15 divided into two components. There is a sort of a
16 business review, business understanding piece. So
17 the district manager would be looking to see what the
18 numbers were, you know, be discussing what's going on
19 in the territory, anything that's unique or different
20 in the territory, and those varied. And then they
21 would spend time in the field watching the
22 representative with the physicians or their
23 customers.

24 And there was -- there was a couple things
25 there. So obviously, they wanted to make sure that

1 the message was fully compliant, that the -- you
2 know, all aspects of the messaging were in place,
3 that the safety measures were being presented, that
4 the necessary materials that should be left behind
5 were left behind.

6 But they also were responsible just to
7 make sure that the representative couldn't do, maybe
8 say something slightly differently or bring the call
9 to a conclusion a different way, they would be
10 enhancing those skill sets as well.

11 So as I said, that happened once, you
12 know, every six weeks. If a representative seemed to
13 be having a problem doing something, then that
14 frequency would be increased to make sure that the
15 person was --

16 Q. The frequency of observation?

17 A. Observation, yes.

18 And then the last piece is that, you know,
19 we have -- back then, I think, it was a voice mail
20 system. Now it's an e-mail system. And we get lots
21 of education through -- through either one of those
22 systems. So we don't need to wait for a formal
23 meeting to go ahead and convey something.

24 So if you say a new trial came out or
25 something, there's a market dynamic, you bring that

1 to the rep's attention. And, you know, if necessary,
2 there will be a scripted response.

3 So if there is a new study the competition
4 came out, and you would have a response to the
5 doctor. The doctor says, "I see there's a new
6 study," there would be a canned response: "Yes,
7 study such-and-such. I don't know the specifics. If
8 you need more information, you should call our
9 medical science liaison," something along those
10 lines.

11 And whenever there is a training need, you
12 know, that's the vehicle that we -- was utilized for
13 the -- just to keep people on top of things all the
14 time.

15 Q. You previously testified that in the
16 period around April 2001, there were approximately
17 775 sales reps selling Duragesic. Do you remember
18 that testimony?

19 A. I do.

20 Q. Do you know whether any of those sales
21 representatives were marketing any medications in
22 addition to Duragesic at that same time?

23 A. I don't know specifically what they would
24 be marketing, but it was most likely they would be
25 selling at least three different drugs.

1 Q. And why is it that you believe that those
2 775 sales representatives likely were selling or
3 marketing other drugs at the same time?

4 A. It would just be a standard business. A
5 standard business for us is that if you have someone
6 in the office, and we -- there is a feeling that
7 there is a capacity to be able to sell at least two
8 or three different drugs. And, you know, so that's
9 been a standard as long as I've been with the
10 company.

11 Q. Why have you stayed with the company for
12 31 years?

13 A. I love my job. I really -- it's -- it's
14 been the best 31 years of my life. I've been very,
15 very fortunate to be with J&J. I mentioned before
16 I've sold, you know, 40 different drugs. I've had
17 the pleasure and -- you know, to sell some very, very
18 good drugs, and I know I've made a difference in
19 patients' lives.

20 J&J also is a credo-based company, and the
21 first line in our credo is, you know, we put patients
22 first. And every marketing campaign that I've seen
23 that I can recall, that is -- that comes out. That
24 plays out. So we -- we do make a difference to
25 patients' lives. And so it's just -- just been a joy

1 to make a difference.

2 Q. And thinking back on your time with
3 Duragesic, what is most memorable for you about your
4 time working on Duragesic?

5 MR. ACKERMAN: Objection to form.

6 BY MS. STRONG:

7 Q. I'm going to rephrase the question.

8 What is most memorable for you as you
9 think back on your time with Duragesic?

10 MR. ACKERMAN: Objection to form.

11 THE WITNESS: So Duragesic has a real
12 special place in my heart. You know, I had a
13 chance -- it's a drug I sold the longest -- but
14 I also believe it's a drug that made the biggest
15 difference to patients.

16 And I clearly can recall being --
17 visited -- being in the field with one of the
18 representatives, and the representative was at
19 the front counter to speak to the nurse, and
20 they were putting some Duragesic tools on the
21 counter. And a patient happened to see it was
22 Duragesic.

23 And the patient ran over and asked, "Are
24 you -- are you here -- do you guys sell
25 Duragesic?"

1 And we say, "Yeah. We work for Janssen.
2 We sell Duragesic."

3 And this person hugged us because we --
4 they told us we had made such a big difference
5 to their lives. You know, this person said they
6 were bedridden, they couldn't get out of bed.
7 They had to be in a chair the whole time. And
8 she was bragging that she could actually walk
9 into the office that day; that, you know, the
10 patch had just changed her life. She could
11 exercise. She could get back to a normal life.
12 And, you know, she stood there crying and
13 hugging us. It was -- you knew at that point
14 you were making a difference in patients' lives.

15 MS. STRONG: Thank you. No further
16 questions.

17 MR. ACKERMAN: I just have a couple follow
18 ups. Let's switch back.

19 VIDEOGRAPHER: Off the record 2:46 p.m.

20 (A recess transpired from 2:46 p.m.
21 until 2:48 p.m.)

22 VIDEOGRAPHER: On the record 2:48 p.m.

23 FURTHER EXAMINATION

24 BY MR. ACKERMAN:

25 Q. Mr. Ritchie, I just have a few follow-up

1 questions.

2 If you could pull out Exhibit 8, please,
3 and turn to the -- to the attachment which is the FDA
4 warning letter. What I'd like to do is direct your
5 attention to --

6 A. This one?

7 Q. Yes. Yes, it's that one. The first two
8 full paragraphs on what is page 3 of the FDA or the
9 page that is numbered page 3 -- it's got the Bates
10 number -779348 at the bottom. Let me know when
11 you're there.

12 A. Yes.

13 Q. And on the paragraph -- so, again, this is
14 the FDA's warning letter to Janssen concerning
15 Duragesic marketing; is that correct?

16 A. Yes.

17 Q. And in that first full paragraph, the
18 warning letter says on pages 6 and 7: "The file card
19 includes the claims long-term effects, 12-month
20 open-label study, significant improvement in physical
21 functioning summary score, and significant
22 improvement in social functioning along with figures
23 illustrating these claims."

24 And then at the end of the paragraph, the
25 FDA writes: "We are not aware of substantial

1 evidence or substantial clinical experience to
2 support these claims."

3 Is that correct?

4 A. That's what it says.

5 Q. And then in the next paragraph, it begins
6 on pages 8 and 9: "The file card includes the claims
7 improved patient outcomes, open-label crossover
8 comparison study, significant improvement in physical
9 functioning summary score, and significant
10 improvement in social functioning."

11 And then the paragraph ends: "We are not
12 aware of substantial evidence or substantial clinical
13 experience to support these claims."

14 Is that -- did I read that correctly?

15 A. Yes.

16 Q. And then in the final paragraph, the FDA
17 writes: "Finally, the file card prominently presents
18 the claims 1,360 loaves and counting. Work
19 interrupted" -- I'm sorry -- "work uninterrupted,
20 life uninterrupted, game uninterrupted, chronic pain
21 relief that supports functionality, helps patients
22 think less about their pain, and improvements in
23 physical and social functioning."

24 And then the paragraph ends: "We are not
25 aware of substantial evidence or substantial clinical

1 experience to support these claims."

2 Did I read that correctly?

3 A. I believe, yes.

4 MR. ACKERMAN: Thank you. I have nothing
5 further.

6 MS. STRONG: No further questions from me,
7 either.

8 MR. ACKERMAN: All right.

9 VIDEOGRAPHER: Off the record 2:52 p.m.
10 (The deposition was concluded
11 at 2:52 p.m.)

12 (Signature reserved.)
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CERTIFICATE OF REPORTER

I, KAREN K. KIDWELL, Registered Merit
Reporter and Certified Realtime Reporter, Notary
Public, do hereby certify that the foregoing
transcript is a true, accurate, and complete record.

I further certify that I am neither
related to nor counsel for any party to the cause
pending or interested in the events thereof.

This the 28th day of January, 2019.

Karen K. Kidwell, RMR, CRR
Registered Merit Reporter
Certified Realtime Reporter

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